



Superannuation

Should your boss pay it?

Are you one of the many construction workers missing out on thousands of dollars in superannuation each year?



Did you know that even if you are a contractor or provide an ABN to your boss you may still be entitled to superannuation payments?

If you didn't know you are not alone.

Many construction workers are unaware that they are entitled to Superannuation

payments, paid for by their boss, because the definition of who is an employee is different under the superannuation guarantee legislation.

THE RULES

According to the Superannuation Guarantee Ruling (SGR) 2005/1 (published by the Australian Taxation Office):

‘For the purposes of subsection 12(3), where the terms of the contract in light of the subsequent conduct of the parties indicate that:

- the individual is remunerated (either wholly or principally) for their personal labour and skills;
- the individual must perform the contractual work personally (there is no right of delegation); and
- the individual is not paid to

achieve a result,

the contract is considered to be wholly or principally for the labour of the individual engaged and he or she will be an employee under that subsection.’

and:

‘A person who holds an ABN may still be an employee for the purposes of the SGAA’.

Tax Rules

The ATO web site also provides information for employers who engage contractors, stating:

‘As an employer, the superannuation

guarantee requires you to contribute towards the superannuation support of most employees, including contractors who you employ.’

‘An employee for superannuation guarantee purposes includes a person engaged under a contract that is wholly or principally for the person’s labour.

‘If the contract is partly for labour and partly for something else (for example, the supply of goods, materials or hire of plant or machinery), it will still be a contract for labour if it is principally (chiefly or mainly) for labour.’

Heavy penalties for failure to pay ... over/

Heavy penalties apply

Employers who don't make the proper super contributions can receive heavy penalties.



If you earn over \$450 per month and are entitled to superannuation payment, then your boss must pay 9% of your ordinary time earnings into a Superan-

nuation fund of your choice.

If your ordinary rate is \$25 per hour that could mean you are entitled to over \$85 per week in super!

THE CFMEU will be claiming full super payments for all members in the NT who are entitled to it.

If you think you are entitled to Super or want more information, contact Mick at the CFMEU office — T. 8981 5280.



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