Grant Thornton

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Superannuation guide for employers

Overview

A constant stream of legislation has been introduced over the past decade to enhance the choice, efficiency and governance of the Australian superannuation system. With so much change it is worth reflecting on the impacts of these on your employer superannuation arrangements.

Over the past 10 years, employers have outsourced their once prized corporate superannuation plans to mastertrusts and industry funds, employees are able to choose their fund and those who do not are placed into an employer's chosen default fund or a fund nominated by an industrial agreement. We have also seen the range of investment options and trust structures available to employees including Self-Managed Superannuation Funds increase significantly.

Greater choice has led to more complexity in payroll and human resources teams and a dilution of scale to employer default superannuation arrangements.

This guide has been prepared to help employers evaluate existing default superannuation plan arrangements to ensure they align closely to the vision and strategy of the business.

Contents

History of the Australian Superannuation System

Australia's retirement income system has been built adopting a three pillars approach:

1	A safety net consisting of a means-tested government age pension system
2	Private savings generated through compulsory contributions to superannuation
3	Voluntary savings through superannuation and other investments

Superannuation has existed in Australia for over a century. In 1986 the Government approved industrial agreements providing contributions of up to 3% to approved superannuation funds. In support of the Government's second pillar of private savings generated through compulsory contributions to superannuation, the Superannuation Guarantee (SG) was introduced in 1992. This progressively took compulsory superannuation contributions to 9% of an employee's Ordinary Time Earnings (OTE).

In 2005, the Government permitted Australian's to nominate a superannuation fund for their employer to pay SG contributions to.

In 2010, as part of the Government's rationalisation of industrial relations, 122 modern awards were created, replacing the 1,500 existing federal and state awards/agreements. As part of this process, certain superannuation funds were grandfathered into modern awards as default superannuation funds'. A default superannuation fund is the fund an employer is required to make a SG payment to if an employee does not choose a fund.

In 2012, the Government announced an increase to the SG from 9% to 12% by 2019/2020, however in 2014 it was announced the SG rate would be frozen at 9.5% from 1 July 2015 for seven years. After 1 July 2021 the SG rate will progressively increase to 12% from 1 July 2025.

2012 also saw the Government respond to an enquiry into the Superannuation System with the StrongerSuper legislation consisting of two new initiatives - MySuper and SuperStream – which commenced on 1 July 2013.

MySuper

MySuper was designed as a low cost default superannuation product intended to simplify default superannuation products and improve their transparency and comparability for members.

The Government's intention was for MySuper to replace existing default arrangements for those employees who do not exercise Choice of Fund and those who are members of a default superannuation fund who do not choose an investment option(s) different to the MySuper default investment strategy.

Key Dates for the implementation of MySuper are:

1 July 2013	Superannuation funds were able to offer MySuper products.
1 January 2014	Employers were required to make SG contributions for employees who have not made a Choice of Fund nomination to a fund which offers a MySuper product.
1 July 2015 - 30 June 2017	Trustees of superannuation funds offering MySuper products will need to transfer existing member balances held in default investment options to a MySuper product or option.

MySuper which commenced on 1 January 2014 has significantly changed the superannuation environment and the way in which superannuation is used as an employee benefit.

The key features of MySuper are:

- a single default investment strategy which may be a diversified strategy or an aged based strategy
- simple and transparent fee structure
- minimum levels of life and Total and Permanent Disablement (TPD) cover, with a standard TPD definition

Investment

Prior to the introduction of MySuper, industry funds and mastertrusts had a single diversified strategy for their default investment option. For mastertrusts, the choice of investment default lay with the employer, who could use a combination of investment options to customise a default appropriate to their workplace.

When employers choose their MySuper product it is important for the default investment strategy (diversified strategy or age based strategy) to be aligned to the demographic of the employers' workforce (i.e. age/risk profile).

Fee structures

One of the objectives of MySuper is to make the fee structures transparent, so MySuper products can be compared. To achieve this there is consistency in the type of fees which can be charged, however, the MySuper product provider is able to set the amount of the fee and the way it is charged. For advice fees, these are disclosed separately and the payments of commissions are banned from MySuper products.

Insurance

Under MySuper, insurance cover can be customised as follows:

- Death and TPD
  - a multiple of salary
  - a percentage of salary times future service until the planned retirement age
  - Fixed Dollar Amounts

- Income protection
  - 75% of salary paid monthly (super contributions can form an additional benefit)
  - a range of waiting periods before claim payments commence (for example 30, 60 or 90 days)
  - a range of benefit payment periods (for example two years or five years to retirement age)

Underinsurance is a significant issue in Australia. The ability to customise cover allows employees to access cost effective cover at a level which is needed to maintain their lifestyle in the event of temporary or permanent disablement or repay debts and protect their family in the event of death.

As of 1 July 2014, the definition of disability must align with the definition described in the *Superannuation Industry Supervisions (SIS) Act 1993*. SIS states disability definitions are subject to any occupation definition with no earnings clauses. This means **an employee may not be paid a benefit** if they are capable of performing any occupation they are reasonably suited to perform by training, education and experience irrespective of a change in income. If a member wants to be insured against the risk of not being able to perform their own occupation, then their insurance needs to be provided outside of superannuation. This change is particularly relevant for professional service based occupations.

The size of an employer's workforce can be leveraged when choosing a MySuper product. Scale provides the flexibility to tailor the insurance benefit design and negotiate higher automatic acceptance limits so more cover is provided without the need to provide health evidence.

Accrued Default Amounts (ADA's)

Prior to the commencement of MySuper, a member of a default superannuation fund who had not made an investment choice was invested in the fund's default investment strategy. Where these members did not elect to make an investment choice prior to the commencement of MySuper, then the amount invested in the default investment option is the members ADA.

As part of the MySuper implementation, superannuation funds are required to transfer members ADA's to the new MySuper investment strategy between 1 July 2015 and 30 June 2017 if the member has not made an investment decision.

Depending on the superannuation fund, the fee structure of the ADA can vary depending on the MySuper investment strategy. It is important for members to research whether it is more advantageous to retain an investment in the ADA, especially where the employer default superannuation plan had a large discount applying to the administration fees prior to MySuper.

SuperStream

SuperStream is a new data and payment standard which will make it easier for employers to send contributions to different funds in one standard electronic format, removing the need to submit this information to separate funds in different formats.

Employers with more than 20 employees must use the new data and e-commerce standard from 1 July 2015. Employers with less than 20 employees are required to use the new standard from 1 July 2016.

SuperStream aims to:
- ensure timely electronic processing of transactions
- improve efficiency for both employers and super funds
- remove the incidence of lost and duplicate accounts; and
- create timely allocation of money to members' accounts

The SuperStream standard requires employers to:
- send all contribution data electronically in a standard message format
- make contribution payments electronically and link data and money with a unique payment reference number
- ensure data and payments are sent on the same day; and
- respond to fund requests for complete information within 10 business days

Solutions available to employers

Typically, employers will use a range of methods to remit contributions to superannuation funds, including.
- in-house payroll
- payroll bureau
- small business clearing house
- clearing house
- other service agent

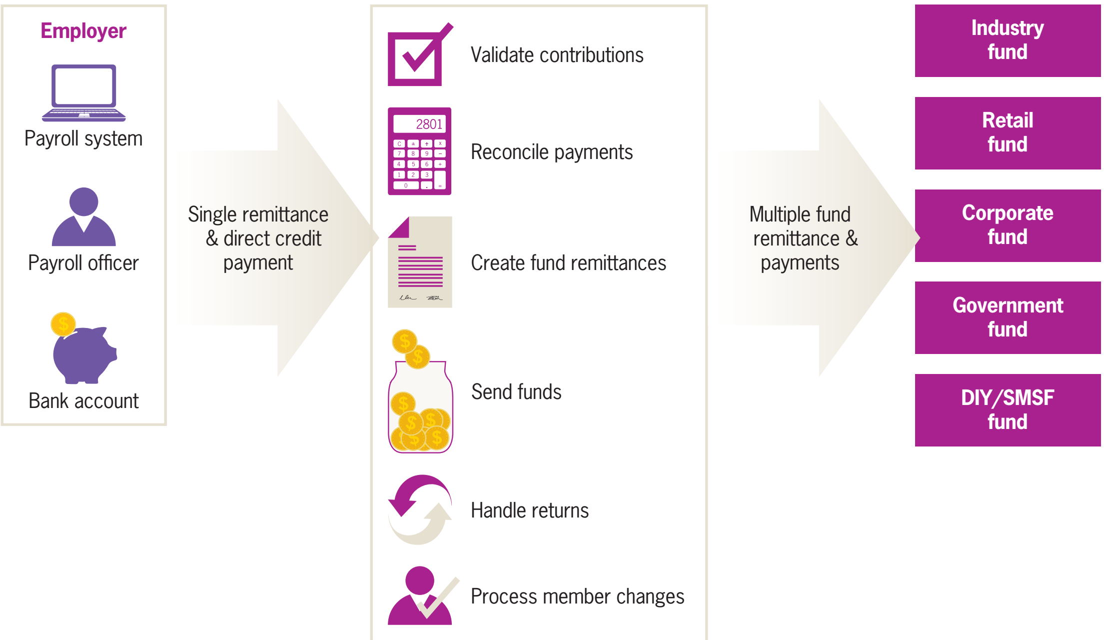
Each of these methods requires a relationship to be established with a gateway operator, who is responsible for the flow of data between superannuation funds and employers. The most efficient way for an employer to comply with the SuperStream data payment standards is to use a clearing house provided either by their default MySuper fund provider (usually no fee) or a payroll provider (for a fee).

Clearing house

A clearing house service enables an employer to send their choice superannuation payment and employee contributions for distribution to the relevant superannuation funds including both default and choice funds.

Employers will only have to provide data in one file format and one payment to the clearing house for all other funds.

The clearing house will split the choice contribution file and create separate files in a compliant format and send them to each of the other funds through the fund's gateway. Clearing houses enable errors to be reduced by validating data prior to payments being made.



Modern awards

The *Fair Work Act 2009* brought together a number of industrial awards and workplace agreements into approximately 122 modern awards. Each modern award outlines the superannuation fund which must be used by the employer as their default fund. In many cases the nominated default funds are complemented with other funds under grandfathering provisions. Grandfathering recognises super funds where an employer has been making contributions to prior to 12 September 2008.

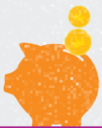
Some employers and employees are not covered by modern awards as they have chosen to have a separate enterprise based industrial agreement approved by Fair Work Australia. A nominated employer fund can be included in this agreement as the default super fund for employees.

Superannuation Guarantee (SG)

The SG contributions are generally payable for employees (full time, part time, casual, contractors and temporary residents) over the age of 18 where they are paid over $450 (before tax) in salary wages per month. Employees under 18 years of age must work at least 30 hours per week to be entitled to SG.

How much SG to pay

The minimum SG contribution for the 2014/2015 financial year is calculated at 9.5% of the employee's earnings base (up to a maximum super contribution base of $49,430 per quarter).
The table below shows how the minimum SG contribution will increase over the coming years.



Year	Rate
1 July 2014 to 30 June 2021	9.50%
2021/2022	10.00%
2022/2023	10.50%
2023/2024	11.00%
2024/2025	11.50%
2025/2026	12.00%

The table below identifies the components of salary and wages the ATO states apply to Ordinary Time Earnings (OTE) in the calculation of the superannuation guarantee.

	Salary or wages	OTE
Awards and agreements		
Overtime hours – award stipulates ordinary hours to be worked and employee works additional hours for which they are paid overtime rates	Yes	No
Overtime hours – agreement prevailing over award	Yes	No
Agreement stipulating award removes distinction between ordinary hours and other hours	Yes – all hours worked	Yes – all hours worked
No ordinary hours of work stipulated	Yes – all hours worked	Yes – all hours worked
Casual employee • shift loading • overtime payments	 Yes Yes	 Yes No
Casual employee whose hours are paid at overtime rates due to a 'bandwidth' clause	Yes	No
Piece-rates – no ordinary hours of work stipulated	Yes	Yes
Overtime component of earnings based on 'hourly driving rate' formula stipulated in award	Yes	No
Allowances		
Allowance by way of unconditional extra payment	Yes	Yes
Expense allowance expected to be fully expended	No	No
Danger allowance	Yes	Yes
Retention allowance	Yes	Yes
Hourly on-call allowance in relation to ordinary hours of work for doctors	Yes	Yes
Payment of expenses		
Reimbursement	No	No
Petty cash	No	No
Reimbursement of travel costs	No	No
Payment for unfair dismissal	No	No
Workers compensation • returning to work • not working	 Yes No	 Yes No
Leave payments		
Annual leave	Yes	Yes
Parental leave – i.e. maternity leave, paternity leave, adoption leave	No	No
Ancillary leave – i.e. jury duty, defence reserve service	No	No
Termination payments		
Termination payments • in lieu of notice • unused annual leave	 Yes Yes	 Yes No
Bonuses		
Performance bonus	Yes	Yes
Bonus labelled as ex-gratia but in respect of ordinary hours of work	Yes	Yes
Christmas bonus	Yes	Yes
Bonus in respect of overtime only	Yes	No

SG payable timeframes

The table below shows the dates SG is due to be received each quarter to the superannuation fund.

Quarter	Period	Payment cut-off date
1	1 July – 30 September	28 October
2	1 October – 31 December	28 January
3	1 January – 31 March	28 April
4	1 April – 30 June	28 July

Contributions which have been deducted from an employee's salary must be received by the recipient superannuation fund within 28 days of the end of the month these amounts were withheld.

Penalties

If an employer fails to pay SG contributions by the due date they will be required to pay a Superannuation Guarantee Charge (SGC). SGC's are made up of:

- SG shortfall amounts, including any choice liability
- interest of 10% per annum on the shortfall amount
- an administration fee of $20 per employee per quarter

The SGC is not tax deductible and an employer may also be subject to penalties of up to 200% of the SGC if the employer fails to lodge the SG statement on time.

Contribution caps

There are limits on the SG contributions employees are able to make to their superannuation known as concessional and non-concessional contribution caps.

Concessional contributions include:

- employer contributions including contributions made under a salary sacrifice arrangement
- personal contributions claimed as a tax deduction by a self-employed person

These contributions are taxed at 15% by the receiving superannuation fund. All other employee contributions are classified as non-concessional and are not taxed by the receiving fund.

The amount of the cap for the 2014/2015 financial year depends on the employee's age.

Cap	Under the age of 49 at 30 June 2014	Aged 49 years or over at 30 June 2014
Concessional	$30,000	$35,000
Non-concessional	$180,000	$180,000

The concessional contributions cap is indexed in line with Average Weekly Ordinary Time Earnings (AWOTE) in increments of $5,000 (rounded down). The cap applying to employees over 49 years if age is not indexed, however this will increase with the cap for those under the age of 49 once indexation catches up.

Employees under the age of 65 are able to "bring forward" two years of non-concessional contributions i.e. three years contributions in a single year.

Excess Concessional Contribution (ECC) charge

The ECC charge is applied to the concessional contributions in excess of the concessional contributions cap and is determined by the ATO considering the amount of the ECC and the taxpayer's marginal tax rate.

From 2014/2015 individuals will be able to withdraw superannuation contributions in excess of the non-concessional contributions cap made after 1 July 2013 including earnings (earnings are taxed at the individual's marginal tax rate). Where this option is chosen, no excess contributions tax will be payable. Individuals who leave their excess contributions in the superannuation fund will still be taxed on these contributions at the marginal rate.

Choice of Fund

The option to choose a superannuation fund under the SG started on 1 July 2005. There is a three step process for employers to follow when actioning a Choice of Fund:

1 Choice of Fund eligibility

Employees can choose a fund if they are:

- employed under a federal award
- employed under a former state award, now known as a notional agreement preserving state award
- employed under another award or agreement that does not require superannuation support or are not employed under any state or industrial agreement including contractors paid principally for their labour

2 Provide a standard choice form

If a new employee is eligible to choose a superannuation fund, the employer must provide them with a *Standard Choice Form (NAT 13080)* within 28 days from the commencement of their employment. If the employee does not choose a fund, the employer must pay the superannuation contributions for that employee into a fund the employer has identified as their employer nominated fund/default fund.

A Standard Choice Form must also be provided within 28 days if:

- an existing employee asks for one
- the employer is not able to contribute to an employee's chosen fund, or it is no longer a complying fund; or
- the employer changes its employer nominated fund

3 Act on the employee's choice

Once an eligible employee chooses a superannuation fund, the employer has two months to arrange to pay contributions into that fund. An employer can start paying superannuation contributions to their employer nominated fund if:

- an employee does not choose a fund within 28 days; or
- the employer has not accepted the employees choice because the employee has not provided all the information required to pay the superannuation contribution to the chosen fund

Penalties

If an employer does not meet all their obligations regarding employees Choice of Fund, they may be liable for a choice liability as part of the SGC (refer above to penalties for not complying with the SG contribution requirements). Further, if the employer does not pass on TFN details to a nominated super fund the penalty is $1,100 per employee.

Record keeping

Records must be retained to demonstrate an employer has offered eligible employees a choice of superannuation fund.

These records include:

- evidence that shows a Standard Choice Form was provided to all eligible employees
- the written information employees provide when they nominate a fund
- receipts or other documents issued by the funds showing super payments have been made into employees chosen funds
- confirmation the employers preferred or default fund meets the minimum insurance requirements
- details of employees who don't have to be offered a choice of super fund

Failure to keep complete records may incur a penalty of up to $3,400.

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