

# SUPERANNUATION – Sole Traders / Contractors

- Where a person is hired in this capacity for **30 hours or less** per week, the participant will have NO superannuation guarantee (SG) obligation to this individual if the work is of a private and domestic nature.
- Where 30 hours are exceeded in one week, infrequently, there **WILL** be an obligation to pay SG super, payable on the full number of ordinary hours in that week.

**If the number of hours exceeds 30 hours per week on a regular basis, this individual would likely be deemed to be an employee under the ATO definition and you should consider offering casual employment (PAYG) to this worker.**

*See also 'BDO Q and A for super' document.*

Paying super for workers engaged as contractors – where there is an obligation, or you just choose to pay super

**Paying super for workers engaged as contractors – where there is an obligation, or you just choose to pay super**

There has been a change to the way super guarantee (SG) super can be paid. In-that, SG super, as from the 30th June 2016, MUST be paid via 'SuperStream'. (SuperStream is a standard for processing superannuation data and payments electronically. See also the 'SuperStream' document.) Only those with an ABN or WPN can make payments via SuperStream. This has meant that for those who were not withholding tax for employees (PAYG), there was no mechanism to make this payment via the SuperStream method.

After a yearlong process with the ATO to find a solution to this problem, at the eleventh hour they have informed us of the following change to enable this to happen.

A participant who engages contractors, and where there is an obligation to pay SG super, or choses to pay SG super, should now apply to the ATO for a WPN. This is a Withholding Payer Number. In the past, this was just for those hiring workers under PAYG and paying tax and/or super for their workers. (and not a business)

This now applies for those just paying super and will allow them the mechanism to pay SG super via Superstream.

## **ADDENDUM - March 2017**

Since receiving this information from the ATO (documented emails from Linh Quach, Employers Segment, Superannuation, ATO) they have not moved forward in making this information available to the wider arena within the ATO. Indeed, it appears that anyone involved with this information has since moved on. We have tried to ensure that this is the correct information by engaging BDO to petition the ATO on our behalf.

The following is the current information from the ATO, conveyed via email. (Bear in mind that to pay SG super you must have either an WPN or ABN – there is no option.)

*'The SuperStream team at the ATO have recognised that a process is needed for the situation where SGC is required to be paid but the payer is not eligible for an ABN or WPN (which is currently what you need to pay SuperStream). The team is currently in discussions at the moment and nothing has been developed as yet. They do not have a timeframe as to when a process will be developed.*

*The ATO advises that for participants in this scenario, they should continue paying super contributions as they have done previously until a new process is developed by the ATO. So that means that they do not need to apply for a WPN (but can do so if they wish.)*

*The ATO will not penalise anyone who has made a genuine attempt to pay their superannuation obligations. If however any of the participants are questioned by the ATO about this, they can refer to this advice. The reference number for this advice in that event is: 1013108422861.'*

**Note: should you wish to apply for a WPN (as below) please contact us for the latest information prior to making the application. Having a WPN will mean you will probably receive a quarterly statement, for which 'ZERO tax withheld' would have to be returned.**

### **Registering for a Withholding Payer Number**

(if using a bookkeeper, they may do this for you)

Submit form NAT3377 to Australian Taxation Office.

Time Required: 28 days for the ATO to process the form. In our experience this can be much longer

1. Obtain form NAT3377 from the Australian Taxation Office. You can call 132866 and the ATO will send it to you, or download the form from the ATO's Application to register a PAYG withholding account page. **Form in the resources.**
2. Complete the form. **See below**
3. Post or Fax the form to the ATO (address details are provided at the end of the form).
4. Wait for your Withholding Payer Number to be issued.

#### **Completing the form:**

It is mostly self-explanatory; however, it's important that Section D/E should be completed with the following wording;

- 8 – Leave blank
- 9 – Write '**Not applicable**'
- 10 – Write '**Not applicable**'
- 11 - Write '**Not applicable. For super stream purposes, contractors only.**'
- 12 – Leave blank
- 13 – Write 'No'
- 14 – Write 'No'
- Write at the top of section A, '**FOR SUPER ONLY**'

Once you have the WPN you can then apply to your super company, or clearing house, to enable you to pay SG super (**For further information see the 'SuperStream' document in the resources**)