



*We enclose a Superannuation Guarantee Update for Employers
for the exclusive use of clients of
The Mischel & Co Group of Companies.*

Dear Client,

SG AMNESTY BILL PASSES PARLIAMENT

The long-awaited superannuation guarantee amnesty bill passed both houses of Parliament on 24 February 2020 and received Royal Assent on 6th March 2020 making it law.

This law change provides a number of incentives for employers to pay any unpaid historical superannuation guarantee (SG) amounts relating to the period 1 July 1992 to 31 March 2018 before tougher penalties apply, giving employers six months to get their SG affairs in order.

An employer will not be able to benefit from the amnesty for any SG shortfall relating to the quarter starting on 1 April 2018 to 31 December or subsequent quarters.

Provided employers complete a new SG Amnesty form (one form per quarter) and the superannuation guarantee charge (SGC) relating to the period 1 July 1992 to 31 March 2018 is paid during the **amnesty period of 24 May 2018 to 7 September 2020**, eligible employers will receive the following benefits:

1. The SGC will be tax deductible

The law changes will allow employers to claim a tax deduction for the SGC payments or contributions made during the amnesty period to offset their SG charge liability.

Note: interest will still need to be calculated at a rate of 10% per annum on the superannuation guarantee (SG) shortfall to compensate employees for late payment.

Background

The Superannuation Guarantee Administration Act 1992 (SGAA 1992) imposes a penalty on employers who do not pay the minimum amount of “superannuation guarantee” contributions in respect of their employees’ ordinary times earnings (OTE) for each quarter.

If the required minimum Super payments are not made by 28 days after the quarter to which they relate, a non tax deductible SGC comprised of the following amounts is payable to the Tax Office:

- Super Guarantee shortfall - that is, the total of the unpaid superannuation for each affected employee;
- interest on the SG shortfall - currently 10% per annum on each individual shortfall from the beginning of the relevant quarter until the date the SG charge is paid; and
- an administration fee – calculated at a rate of \$20 per employee, per quarter.

2. The administration fee component of the SGC will be waived.

The administration fee which is \$20 per employee, per quarter will be waived.

3. No penalties will be applied for failing to lodge an SGC statement.

In usual circumstances this penalty can be up to 200% of the SGC amount.

A further incentive is that if any SG shortfall relating to the period between 1 July 1992 and 31 March 2018 is not disclosed during the amnesty period (**24 May 2018 until 7 September 2020**) and this is subsequently uncovered by the Australian Taxation Office during audit, the new legislation will impose minimum penalties on employers by limiting the commissioner’s ability to remit penalties below 100 per cent of the amount of SG charge payable.

“If employers decide not take advantage of the amnesty, they will now face significantly higher penalties when they are caught. In addition, throughout the amnesty period the ATO will still continue its usual audit and enforcement activity against employers for historical obligations they do not own up to voluntarily.

The ATO also announced that employers who had previously disclosed unpaid SGC amounts to the Tax Office in anticipation of the SG amnesty, particularly those who came forward between 24 May 2018 and 6 March 2020, will not be required to lodge again or apply on the SG amnesty form.

If you would like to discuss this matter further, including the eligibility criteria and how to make a disclosure in the correct form, please contact Vick Fak on **[03 9684 9999]** or via **email at [vick@mischco.com.au]**.



The information supplied in this memorandum has been sourced from numerous publications available to The Mischel & Co Group of Companies including the Australian Taxation Office website and other superannuation specialist.

The content of this information memorandum is general information only and hasn't taken your circumstances into account. It's important to consider your particular circumstance before deciding what is right for you as it does not reflect all the superannuation legislation and announcements but simply highlights those points which we believe are most likely to affect our clients.

The Mischel & Co Group Pty Ltd
Accountants and Business Advisors
Suite 102 First Floor 41 Cecil Street Southbank Vic 3006
Phone: 03 9684 9999 Fax: 03 9684 9988 Email: admin@mischco.com.au
Postal Address: P.O Box 1380 St Kilda South Vic 3182
Website: www.mischco.com.au