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Super guarantee contributions do not apply to parental leave

In line with the 2009-10 Budget announcements, regulations have been made to clarify that employers are not required to provide superannuation guarantee contributions in respect of paid parental leave and ancillary leave payments. These Regulations commence on **1 July 2009**.

Background

Under the *Superannuation Guarantee (Administration) Act 1992* (the Act), employers contribute superannuation for their employees, calculated at 9 per cent of the employees' ordinary time earnings.

If an employer does not contribute the full amount, a superannuation guarantee shortfall arises.

Employers are in the first instance only required to provide superannuation support in relation to a particular payment if it falls within the definition of ordinary time earnings, which is a narrower category than salary and wages because it excludes most overtime and some other payments.

Regulations amendments

Superannuation Guarantee (Administration) Amendment Regulations 2009 (No. 1) received Royal Assent on 24 June 2009. The regulations amend the *Superannuation Guarantee (Administration) Regulations 1993*, to ensure that employers do not have to make superannuation guarantee payments on paid parental leave and ancillary leave payments.

Parental leave includes maternity leave, early paid leave relating to an inability to be transferred to a safe job, paternity leave and other leave taken by partners at the time of birth or adoption, pre-adoption leave and adoption leave.

The regulations also exclude payments for service with the Defence Force Reserves, and payments for eligible community service activity (as defined in the Fair Work Act 2009). Eligible community service includes jury service.

Source: *Superannuation Guarantee (Administration) Amendment Regulations 2009 (No. 1)*

Money laundering tricks revealed

The Australian transactions Reports and Analysis Centre (AUSTRAC) has released a report including the latest money laundering methods and details of other financial crimes: http://www.austrac.gov.au/files/09_typ_entire_report.pdf.

The AUSTRAC Typologies and Case Studies Report 2009 presents a range of case studies that highlight illicit activities, many of which may have remained undetected if not for diligent reporting by Australian businesses.

The followings are examples of superannuation frauds:

Stolen super rollover cheques

What money laundering method was used?

The offenders stole superannuation rollover cheques belonging to a legitimate industry superannuation fund from a post office. The cheques had been posted and delivered to the post office, where they were stolen from the superannuation fund's locked post office box.

The offenders registered a bogus business name similar to that used by the legitimate superannuation fund and opened two bank accounts using the registration papers of the new business. The first account was used to clear the cheques and deposit the stolen funds, from which they were transferred across to the second account. From the second account the funds were transferred to a Lithuanian business account. In total, 91 stolen cheques worth AUD1.5 million were deposited into the two accounts.

What indicators to look for to identify the fraud?

- Frequent cheque deposits
- Funds withdrawn from overseas accounts through ATMs in Australia
- Similar transactions conducted over a short period of time
- Use of false companies
- Use of false documentation

Early release super scam and overseas transfer

What money laundering method was used?

A man allegedly operated an illegal early release superannuation scheme. The operator of the scheme had transferred the funds generated by the scheme overseas in amounts of less than AUD10,000. He had also used cash to add more than AUD98,000 onto a stored value card.

What indicators to look for to identify the fraud?

- Multiple funds transfers below AUD10,000
- Transactions inconsistent with customer profile
- Use of stored value cards

Early release super scam and SMSF

What money laundering method was used?

A network of individuals established an unlicensed financial services business offering clients early access to their superannuation funds. This business acted as trustee for a self managed superannuation fund (SMSF).

It is alleged that the preserved superannuation benefits of 121 clients, worth more than AUD3.5 million, were deposited into the SMSF's bank accounts. These funds were rolled over from 11 legitimate superannuation funds. The SMSF managers then allegedly obtained early access to these benefits and withdrew and distributed the funds to the clients. As part of this process the fund managers retained commissions totalling more than AUD685,000 from the clients' funds.

What indicators to look for to identify the fraud?

- Common bank accounts identify and link superannuants, facilitators and organisers
- Multiple low-value international funds transfers
- Significant cash withdrawals from superannuation accounts
- Unusual bank account activity into and out of superannuation account/s



APRA releases quarterly superannuation statistics for March 2009

The Australian Prudential Regulation Authority (APRA) released its March 2009 *Quarterly Superannuation Performance publication*, which shows total estimated assets fell over the quarter by \$14.9 billion, or 1.4 per cent, to \$1.03 trillion.

Contributions to funds with at least \$50 million in assets over the March quarter were \$17.3 billion, with employers contributing \$14.3 billion and members contributing \$2.8 billion. Other contributions, including spouse contributions and government co-contributions, totalled \$198 million.

During the March 2009 quarter, retail funds received 34.1 per cent (\$5.9 billion) of total contributions, while industry funds received 32.4 per cent (\$5.6 billion), public sector funds 27.1 per cent (\$4.7 billion) and corporate funds 6.5 per cent (\$1.1 billion).

Copies of the March 2009 *Quarterly Superannuation Performance* publication are available on APRA's website at www.apra.gov.au/Statistics/Superannuation-Institutions-Statistics.cfm

Source: Australian Prudential Regulation Authority, March 2009 Quarterly Superannuation Performance

2009 Budget measures implemented

Following the 2009 Budget announcements, a few new measures have now become law. Please refer to the table below for the dates on which certain new measures have come, or will come, into effect.

Legislation	Description	Date of effect
Superannuation Guarantee (Administration) Act 1992	Super guarantee contributions They do not apply to parental leave	1 July 2009
Tax Laws Amendment (2009 Budget Measures No. 1) Bill 2009	Temporary reduction in the Government co-contribution Refer to issue 176 of the Aon Super News for further details.	1 July 2009
Tax Laws Amendment (2009 Budget Measures No. 1) Bill 2009	Reduction in the concessional contributions cap Refer to issue 176 of the Aon Super News for further details.	1 July 2009
Social Security and Other Legislation Amendment (Pension Reform and Other 2009 Budget Measures) Bill 2009	Pension rate increase Single aged pensioners will receive \$32.49 more a week and couples will get an extra \$10.14 a week (per couple).	20 September 2009
Social Security and Other Legislation Amendment (Pension Reform and Other 2009 Budget Measures) Bill 2009	Pension age increase The qualifying age for the pension will be gradually increased from 65 to 67 years between 2017 and 2023. Currently, the qualifying age for the age pension for men is 65 years and, for women, 63.5 years. The women's age pension age is progressively increasing and will align with the men's (that is, 65 years) on 1 July 2013.	1 July 2017
Social Security and Other Legislation Amendment (Pension Reform and Other 2009 Budget Measures) Bill 2009	Income test for pensions tightened The legislation increases the income test taper rate from 40 cents to 50 cents per dollar of income over the ordinary income free area and removes the additional income test free area for dependent children from the calculation of the amount of a person's ordinary income free area. Transitional arrangements will apply for existing pensioners affected by the new income test changes to ensure current payment rates are maintained in real terms, and that those pensioners also benefit from a pension increase. Only half of all employment income up to a maximum of \$500 a fortnight will be assessed in the income test.	20 September 2009

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