



MACBITES - ATO's *SIGNIFICANT PENALTIES* for late paid and unpaid superannuation guarantee (SG)



Overview:

The ATO have significantly increased their penalties for late paid and unpaid SG and are spending significant resources to actively audit businesses who fail to make payment by the due date. Due to the ATO's data matching capabilities they are able to quickly identify businesses that have paid SG late (or unpaid).

Total penalties can be in excess of **200%** of the late paid and unpaid SG and therefore exposing businesses to large penalties if not addressed.

Below is a summary of the SG payment due date for each quarter:

SG QUARTER	SG DUE DATE
1 July – 30 September	28 October
1 October – 31 December	28 January
1 January – 31 March	28 April
1 April – 30 June	28 July

If you receive a letter from the ATO regarding late payment of SG or you think you have paid SG late in the past. We would strongly recommend you contact us so we can correspond with the ATO on your behalf and make sure all the relevant ATO forms are lodged correctly.

If ATO letters are ignored the ATO will issue default assessments and may apply penalties at 200%.

Below are common questions we have been asked about late payment of SG:

1. If SG is paid a couple days late there will be no penalties, right?

If SG is paid even 1 day late the ATO requires you contribute an additional 10% p.a. to your employee's superfund. The additional 10% p.a. does not stop accruing until an SGC Statement is lodged with the ATO.

2. Can I just pay my employee additional SG to make up for paying them late and not get the ATO involved?

As soon as SG is paid 1 day late an SGC Statement is required to be lodged with the ATO.

3. If I'm going to have to pay penalties anyway, what's the point of voluntarily telling the ATO?

If an SGC Statement is lodged within 1 month of the SG due date (see above) the ATO does not apply penalties (which can be up to 200%). However, the additional 10% p.a. will still be required to be paid to the employee's superannuation fund.

4. I've realised I've paid SG 6 months late that relates back to the quarter ending 30 June 2020. Should I voluntarily tell the ATO?

Although this is out of the 1-month penalty free period, the ATO significantly reduces penalties for businesses who voluntarily advise them of past errors. Businesses who make a voluntary disclosure may get penalties reduced to \$nil so we would always recommend making voluntary disclosures.

5. I've paid SG late but that was over 3 years ago. Surely, I'm in the clear now if the ATO have not picked it up yet?

Many SG audits that are currently occurring go back 3 plus years. Therefore, if you have paid SG late (or unpaid) you are never in the clear until an SGC statement is lodged.

6. My business pays a lot of overtime that ordinarily does not have SG so at least my potential penalties shouldn't be too much?

Incorrect – Once SG is paid late and additional SG needs to be paid, the additional SG (known as the SG charge) is calculated on total salary and wages. Therefore, the business would now be required to pay SG on overtime.

7. My employee did not provide us with their super fund details even though I asked several times and therefore I couldn't pay their SG on time. Since I'm not at fault, what happens here?

Wrongly or rightly, it's the responsibility of the business to pay their employee's SG on time and therefore this unpaid SG would be subject to the additional 10% p.a. and penalties of up to 200%.

If an employee has not completed a super choice form, we would recommend you check to see if they have a 'stapled super fund'. If they don't have either you are allowed to set up a default super fund for them and make the SG to this fund.

As can be seen by the above questions, the penalties can be significant but there is also the ability to get them reduced if you act quickly. As always, we are here to help, should you have any questions regarding how to ensure you are meeting all your employee tax obligations please reach out to a team member of our office.

MacMillan Cowan & Co
reception@macmillancowan.com.au

This email was intended for Melita Wignall: melitaw@macmillancowan.com.au • [Unsubscribe](#)

**Level 2, 10 Moorabool Street
GEELONG VIC 3220**