THE INCOME TAX PROFESSIONALS

Employees Now Have A Super Choice

The laws surrounding employees and their choice of superannuation find have changed. From 1 January 2021, employees can now choose the super fund to which you pay their compulsory super contributions.

New workplace determinations and enterprise agreements made on this date or after means that as an employer, you'll be required to offer existing employees their own choice of super fund, as well as to all new employees.

How Do Employees Choose Their Fund?

Employees can nominate their fund by completing the standard choice form through ATO online services linked to their MyGov account, or you can give them a Superannuation (super) Standard Choice Form to complete. You don't have to use the Standard Choice Form however your alternative form must provide them with all of the same information that appears on the Standard Choice Form.

You'll need to give a new employee the Standard Choice Form (or equivalent) within 28 days of their start date unless you have provided them with details earlier. You'll also need to provide your employees with a Standard Choice Form or equivalent within 28 days if you can't contribute to their chosen fund, or if it's no longer a complying fund, and if you change your nominated fund and you're paying your employee's contributions into that fund.

After the fund has been nominated, you will be required by law to pay their superannuation contributions into their nominated fund. If an employee doesn't nominate a fund, you can continue to pay their contributions into a previously nominated fund or your default fund.

By law, you'll need to provide the following information to your employee:

- Your Australian Business Number (ABN)
- Their employee status (full time, part time or casual)
- Your default superannuation details such as the name of the fund, the unique superannuation identifier (USI) and their ABN

You'll need to keep a copy of your employees completed forms or an online printed summary from the ATO for your own records for five years. You won't have to send the ATO a copy or one to your employee's chosen super fund.

How Often Can Employees Change Their Fund?

Exiting employees can change their choice of fund as often as they like, but you'll only have to accept a new choice from them once in any 12 month period. If your employee asks for a Standard Choice Form or similar alterative, you'll need to provide them with one within 28 days.

If your employee doesn't nominate a fund, you'll need to pay their super contributions into your default fund by the due date.

Which Employees Are Eligible?

When you employ new staff, you'll need to confirm that they are eligible to choose their own super fund. If your employee is employed under an award or registered agreement that does not require super support, if they are employed under an enterprise agreement or workplace determination made on or after 1 January 2021, or if they are not employed under any state award or registered agreement including contractors, they are eligible to choose their own super fund.

You won't need to offer a choice of fund if your employee's super fund undergoes a merger or acquisition or to those employees on a temporary working visa.

If you're not sure if the award or registered agreement covers your employee, visit the Fair Work Ombudsman website (fairwork.gov.au), phone the workplace relations department of your state or territory or check with your employer association.

When Do I Need To Start Paying Into A Nominated Fund?

When your employee gives you the information for their nominated super fund, you'll have two months in which to start paying contributions. Penalties may be imposed if employees are not given a choice of fund or if you don't pay super contributions into their nominated fund.

Tax File Number

Don't forget to give your employees Tax File Number (TFN) to their nominated super fund when you make contributions. If you receive a TFN less than 14 days before you are eligible to make a payment, you have 14 days to give the TFN to the super fund. Penalties may be imposed if you don't pass your employees TFN to their super fund or to your default super fund. It is also your responsibility to make sure that any third parties that you use to pay your employee super contributions pass on your employee TFN.

If the super fund doesn't have your employee's TFN, they won't be able to accept personal employee contributions. If you have an employee who wants to make personal super payments as a payroll deduction, check you have given their TFN to their super fund.

If an employee hasn't given you their TFN since 1 July 2007 or earlier, you'll need to complete an Authority to provide your tax file number to your super fund to authorise you to pass their TFN to their super fund.

When Do You Have To Pay Your Employee Their Super?

If your employee earns $450 or more before tax in a calendar month, you'll need to pay them super on top of their wages. The minimum you must pay is called the Super Guarantee (SG). The SG is 9.5% on an employee's ordinary time earnings.

You'll need to pay the SG at least four times a year, or by the quarterly dates. Your payments must be reported electronically in a standard format to ensure you meet Super Stream requirements. This can be paid using your Single Touch Payroll (STP) software.

Your payments must go into a complying fund. If you don't pay on time and into the right fund, you'll need to pay the superannuation guarantee charge (SGC) and lodge an SGC statement, which is not tax-deductible.

An ITP Tax Accountant can help you with your employee super obligations as well as your businesses tax affairs. Phone 1800 367 487 and chat with a friendly Tax Accountant today.