



April 2007 Edition

TALKING POINT!

WELCOME

In this special edition of **TALKING POINT!** we specifically cover the changes announced in 2004 by the Federal Treasurer with respect to the earnings base for the calculation of Superannuation Guarantee contributions and clarifications released since then. Note that this change is effective from 1 July 2008 and may not affect all employers.

IMPORTANT NOTE

The issue of determining an employee's "Notional Earnings Base" for Superannuation Guarantee purposes is a complicated area and requires detailed analysis. Please note that the information contained in this newsletter should not be considered as "legal advice", nor do we suggest that it represents a rigorous analysis of your particular position. Specific advice should be sought prior to any changes and you may need specific employment law advice.

SUPERANNUATION GUARANTEE NOTIONAL EARNINGS BASE

The Superannuation Guarantee (Administration) Act 1992 (SGAA) sets down that in order to meet its SG obligations to an employee, the employer must pay the appropriate percentage of the employee's "Notional Earnings Base" (NEB).

Where an employer was making contributions to a superannuation fund prior to 21 August 1991 then an employee's NEB is the salary definition on which contributions were made under the "pre 21 August 1991" fund. Where an employee is covered by an award then the employee's NEB is the definition of salary for award superannuation contribution purposes.

In other cases the default NEB is Ordinary Time Earnings (OTE). What is included and excluded from OTE is set out in the attached documentation (SGR94/4). The "pre 21 August 1991" fund definition of NEB applies to all members of the fund whether they were members as at 21 August 1991 or joined later. The pre 21 August 1991 definition of salary for NEB must not be subsequently reduced, but it can be increased.

In 2004, the Government announced that with effect from 1 July 2008 the NEB will be a minimum of OTE.

WHAT DO YOU NEED TO DO?

If you already paying Super Guarantee contributions on a NEB of OTE there is no change required.

If you have been calculating Super Guarantee contributions on a NEB lower than OTE, you will need to address this issue prior to 30 June 2008. Depending on your particular circumstances the effect of the change to OTE may be to dramatically increase the company's on-going superannuation liability from 1 July 2008 due to the inclusion of bonuses, commissions etc.

Possible solutions include:

- The most obvious and costly solution is to pay Super Guarantee on all bonuses and



- commissions.
- Costs can be moderated to the extent that current bonus and commission systems can be adjusted to convert \$100 of current bonus or commission to \$91.74 bonus or commission and an SG payment of \$8.26 (i.e. 9% of \$91.74), thus meeting SG requirements at no additional cost. The company may be able to agree a position where part of the SG requirement is met out of current bonus and commission and part is paid by the company in addition to the current bonus and commission.
 - Different approaches may be considered for existing and new employees and for different categories of employee.

It is important to remember that this potential change to the NEB only applies to the 9% Super Guarantee contributions. If the company is paying contributions over and above the 9% Super Guarantee, there is no requirement to use the OTE definition from 1 July 2008, for those additional contributions. This change only applies to the calculation and payment of the 9% SG contributions.

However, it may be administratively easier to have one NEB for all superannuation contributions.

WHAT DO YOU NEED TO COMMUNICATE TO EMPLOYEES?

Obviously, if you are already calculating Super Guarantee on OTE it is likely that there will be no need to communicate with your employees.

However, depending on the decision made, if you are changing the NEB for the calculation of the Super Guarantee contribution, this will need to be communicated to members. This may involve changing letters of employment, explanatory announcements etc and you may need to seek input from employment law specialists before making any changes.

Depending on what is actually required, NFS may be able to assist with the drafting of the communication material.

FOR FURTHER INFORMATION

We hope that you find **TALKING POINT!** informative and welcome your feedback. Contact NFS on (02) 9929 2700, e-mail us at info@northbridgeadmin.com.au or visit our website www.northbridgeadmin.com.au.

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