

Employing Staff in Australia

If you are employing staff in Australia for the first time, this fact sheet will help you understand your tax and superannuation obligations.

When a new worker starts, you first need to determine whether they are an 'employee' or an 'independent contractor' as different tax and superannuation obligations apply. See overleaf or use the decision tool at www.ato.gov.au/businesses to help determine this.

If your worker is an employee

When you engage a new employee, you need to organize payment of their income tax, superannuation and possibly also fringe benefits tax. Below are the steps to take.

PAY AS YOU GO (PAYG) INCOME TAX

1. Register for PAYG withholding (if not already registered) by phoning 132 866 or through your tax adviser.
2. Provide a **Tax file number declaration form** to new employees for them to complete and return to you.
3. Complete Section B of your employee's **Tax file number declaration**.
4. Forward the completed original of the Tax file number declaration to the Tax Office within 14 days of the employee's start date.
5. Keep the necessary PAYG withholding records. These include wages records, voluntary agreements, employment, tax and withholding declarations and copies of payment summaries.

FRINGE BENEFITS TAX (FBT)

Salary packaging enables Australian employers to improve the remuneration of their employees through potential tax savings but also involves strict FBT documentation requirements.

Broadly your FBT obligations are:

1. Determine if any fringe benefits will be provided to the employee.
2. If entering into a salary packaging arrangement, ensure the arrangement is agreed to by both parties and documented.
3. Keep the necessary FBT records.

SUPERANNUATION

All employers must pay superannuation contributions on behalf of their eligible employees into a complying superannuation fund. The amount of superannuation is prescribed by law and is currently 9% of an employee's earnings base.

Under Australian law, all employers must provide employees with the option to choose their own superannuation fund if they prefer. Broadly the steps to take are:

1. Determine who is an employee and if they are eligible for the superannuation guarantee.
2. Select a superannuation fund to use, and check whether the superannuation fund complies.
3. Complete the Employer section of the "Choosing a super fund" form and give it to your employee to complete. This gives them the option to choose their own super fund.
4. Determine an employee's earning's base.
5. Pay contributions by the quarterly cut-off dates.
6. Understand the superannuation guarantee charge and how to calculate it.
7. Ensure you meet requirements to report superannuation contributions to your employees.
8. Keep the necessary superannuation guarantee documents.

Who is an independent contractor?

An independent contractor is an entity (such as an individual, partnership, trust or company) that agrees to produce a designated result for an agreed price. In most cases an independent contractor:

- Is paid for results achieved
- Provides all or most of the necessary materials and equipment to complete the work
- Is free to delegate work to other entities
- Has freedom in the way the work is done
- Provides services to the general public and other businesses
- Is free to accept or refuse work
- Is in a position to make a profit or loss.

If your worker is an independent contractor

If you employ an independent contractor, you are required to withhold tax from payments to them only where the contractor:

- Has entered into a voluntary agreement with the payer to have amounts withheld
- Provides their work or services for a client of the payer under a labour hire arrangement, or
- Has not quoted their Australian Business Number (ABN) to the payer.

In some cases the superannuation guarantee laws may apply to payments for work or services by an independent contractor.

When you engage an independent contractor, broadly your obligations are:

PAY AS YOU GO (PAYG):

1. If entering a voluntary agreement: Register for PAYG withholding (if not already registered), and complete a voluntary agreement for PAYG withholding form.
2. Keep the necessary PAYG withholding records.

SUPERANNUATION

Determine whether the contractor is eligible for superannuation and follow the steps as for employees overleaf.

You can find out more at www.ato.gov.au/business – Paying Staff. You may also be affected by other federal, state and territory legislation. Find out more at www.business.gov.au Alternatively, please contact your Kelly+Partners adviser.

The information contained in this Business Guide is not exhaustive and is based on conditions prevailing at the time of publication. Users are advised to consult professionals before taking any formal action. While all reasonable care has been taken in the preparation of the publication, we do not accept any responsibility for any errors it may contain, whether caused by negligence or otherwise, or for any loss, however, caused, or sustained by any person that relies on it.

Note: This information is of a general nature only and is not intended to be relied upon, nor to be a substitute for, specific professional advice. Also as changes in legislation may occur quickly we recommend that our formal advice be sought before acting in any of the above areas.

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