



PAYING SUPER FOR YOUR SUB-CONTRACTORS

Should you be paying super for your sub-contractors?

As an employer, when it comes to your superannuation obligations in respect of your sub-contractors this can be a very grey area. Whether or not you are obligated to pay super will depend on what the legislative definition of an 'employee' is for superannuation purposes.

While the usual definition of an employee is anyone who receives salary or wages in return for their labour or services, for Superannuation Guarantee purposes, employees may also include:

- A director of a business
- An employer's family member who works in the business
- A contractor.

If you engage sub-contractors they may be classified as employees for superannuation purposes and as such you will have obligations under the Superannuation Guarantee legislation.

How do you know if you should be paying super for your contract workers?

You should take the following factors into consideration:

- 1. How does your sub-contractor trade?**
 - Company/Partnership — No obligation to pay superannuation.
 - Sole Trader — You may be liable to pay super for them.
- 2. Who decides when & where they work?**
- 3. Who supplies the materials for the job? (does not include hand tools)**
- 4. Do they have the power to delegate work to another party?**
- 5. How are they paid? (hourly/weekly rate or at the completion of the job)**

If you have the control to delegate workloads and supply the major materials for the job (which does not include tools), you are likely to be considered the 'employer' in this contract relationship and, under Superannuation Guarantee rules, will be obligated to pay superannuation contributions for them.

REMEMBER:

→ Having an ABN (Australian Business Number) does not automatically exclude a sub-contractor as being an 'employee' and therefore does not automatically release you of your superannuation obligations to that sub-contractor.

→ A person working for an hourly rate (Labour Only Hourly Rate Sub-contractor) is still an employee and not a sub-contractor for superannuation purposes.

→ Every contract is different. BUSS(Q) is not an authority on the relationship/contracts you have with your employees/sub-contractors. We can give you some basic guidance, however you may need to contact the ATO.
See contact details overleaf

If you are an employer who hires a sub-contractor, you are likely to have Superannuation Guarantee obligations for that sub-contractor. →



Your super obligations to sub-contractors

If you engage sub-contractors, in many cases they will be classified as employees for superannuation purposes and as such you will have obligations under the Superannuation Guarantee legislation.

To assist you, the ATO has an excellent tool available on their website called: **Building and construction industry – employers/contractor decision tool**.

To find the tool go to www.ato.gov.au, then follow these six steps.

STEP 1	On main menu on the left under What do you want to do? choose Find a rate or calculator , click on Business in the pop up window
STEP 2	Choose List all rates and calculators
STEP 3	Choose the Tools option
STEP 4	Click on the second link – Building and construction industry – employee/contractor decision tool
STEP 5	Click on the link – 2009 Building and construction industry – employee/contractor decision tool
STEP 6	Click on Start to launch the questionnaire

How do I get more information?

If you would like more information about your superannuation obligations to sub-contractors or super in general, you can contact one of our friendly customer service staff on **FREECALL 1800 657 216** or you can log onto the ATO website www.ato.gov.au or contact them on **13 10 20**.

IMPORTANT INFORMATION

The advice supplied in this fact sheet is general advice only and does not take into account or consider your personal objectives, financial situation or needs. Before acting on this information, you should consider the appropriateness of the information to your individual needs or seek independent advice from a properly qualified professional. BUSS(Q) has partnered with Money Solutions to offer BUSS(Q) members financial advice in relation to their superannuation, at no extra cost to the member, as the cost for this advice is included in the fund's administration fees. Before acquisition of a BUSS(Q) product, a Product Disclosure Statement should be obtained. A copy of BUSS(Q)'s Financial Services Guide and Product Disclosure Statements may be downloaded from the BUSS(Q) website www.bussq.com.au or you can request a copy by contacting BUSS(Q) on FREECALL 1800 657 216. Licence and registration numbers for: BUSS(Queensland) Pty Ltd ABN 15 065 081 281; AFS Licence 237860; BUSS(Q) ABN 85 571 332 201. Money Solutions Pty Limited AFS Licence No. 258145.

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