

Rei Super - April 2008 Employer Newsletter (Victoria)

15 April 2008

Superannuation Guarantee - Changes to Notional Earnings Base

Employers will be aware that when paying superannuation guarantee (SG) contributions, the amount must be based on their employee's 'earnings base'. Since 1991, some Victorian real estate employers have been entitled to use as the earnings base their sales persons' retainer.

However changes to the law effective 1 July 2008 mean that from that date, all real estate employers will be required to pay SG contributions based on 'Ordinary Time Earnings'.

Ordinary Time Earnings are an employee's earnings in relation to ordinary hours of work (including over-award payments, bonuses, commission, shift allowances and paid leave).

Historically the earnings base for real estate sales persons in Victoria was considered by some employers to be their retainer only and SG was not paid on commissions or any other applicable allowances.

The changes to the law from July 1 2008 mean that commission and any other relevant allowances or items that are included in Ordinary Time Earnings (see ATO Superannuation Guarantee Ruling – SGR 94/4) will need to be included in the earnings base for SG payments. This will result in an increase in the required SG contribution for many employees.

Employers should also be aware of the 'maximum contribution base', which is the maximum amount of earnings on which an employer is required to pay SG. For the 2007-08 financial year, the maximum contribution base is \$36,470 per quarter, meaning that employers do not have to contribute more than 9% of \$36,470 or \$3,282.30 for any employee for a particular quarter.

Employers will need to consider the changes applicable from 1 July 2008 including whether to:

- make an additional superannuation contribution equal to 9% of the commission and any other relevant allowances or items that are included in Ordinary Time Earnings (see ATO Superannuation Guarantee Ruling – SGR 94/4) (an additional cost for the employer) or
- or whether they are permitted to deduct the 9% superannuation contribution from the commission before paying the balance to the employee (reducing the cash component of salary paid to the employee)

In many cases reducing the cash payment to employees may not be possible without renegotiating contracts and employment agreements. Therefore it is important to consider these issues now and to negotiate any new agreements before July 1 2008.

Employees may need to seek advice on the changes and their impact on employees prior to 1 July 2008. If you have questions about how these changes may impact on you, please contact Sue Johnson at Rei Super on bdm@reisuper.com.au or your industrial relations adviser.

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