



# Anglican Church Diocese of Sydney

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## Reportable Employer Superannuation Contribution

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There have been recent changes made by the Government to the manner in which superannuation contributions will be treated for certain purposes.

### EXPLANATION OF CHANGES

With effect from 1 July 2009 the definition of income that is used to determine eligibility for government support programs will be expanded to include 'reportable employer superannuation contributions'.

Reportable employer superannuation contributions are those contributions made by an employer to an individual where ALL of the following apply –

1. the individual influenced, or might reasonably be expected to have influenced, the rate or amount of super contributed for them;
2. the contributions are additional to the compulsory contributions that are under any of the following –
  - (a) super guarantee law
  - (b) an industrial agreement
  - (c) the trust deed or governing rules of a super fund, or
  - (d) a federal, state or territory law.

The inclusion of reportable employer superannuation contributions as part of an individual's income will be relevant to the following, to name a few –

- (a) the government superannuation co-contribution,
- (b) HELP repayments,
- (c) Medicare levy surcharge,
- (d) the Senior Australians tax offset, and
- (e) tax offset for spouse contributions
- (f) family assistance benefits, youth allowance and child care benefit.

The change does not affect the definition of taxable income that is used to determine income tax liability.

A link to the Centrelink web site that provides a summary of the recent changes can be accessed by clicking [HERE](#). The information with respect to reportable superannuation contributions is under the heading "*Expanded definition of income*".

## **APPLICATION TO CLERGY AND LAY WORKERS**

***Important note:*** *the advice below considers the general circumstances of clergy and lay workers and does not take into account your personal circumstances. You may wish to seek advice from an authorised tax agent or lawyer that takes your personal circumstances into account.*

### **1. Is the contribution made by an employer?**

#### ***Parish Clergy***

To be a 'reportable employer superannuation contribution' a contribution must have been made by an employer. For the purposes of reportable employer superannuation contributions the term "employer" is defined by section 12 of the *Superannuation Guarantee (Administration) Act 1992*. This definition is the ordinary meaning of "employer" extended to include certain other classes of people. We are of the view that generally-speaking none of the extended classes of people cover clergy.

Generally-speaking, clergy who are licensed to a parish by the Archbishop hold an ecclesiastical office and are not employees. Therefore generally-speaking superannuation contributions made for parish clergy are not reportable employer superannuation contributions even if the rate or amount of the contribution is influenced by the member of clergy. However this general position may not apply if, contrary to recommended practice, there is a specific contract in place with the member of clergy for the performance of functions in the parish.

It is not clear that the Government intended to exclude superannuation contributions made for clergy who are not employees. We will keep a watching brief on the matter in case the Government proposes further changes.

#### ***Clergy performing services for Anglican organisations***

Generally-speaking clergy performing services for an Anglican organisation would be doing so as an employee of the organisation notwithstanding that the Archbishop may have issued a licence in respect to the position held. Clergy working for Anglican organisations are generally subject to the authority of the organisation in the performance of their work.

#### ***Lay staff***

Generally-speaking lay persons who are remunerated for their service are employees. In the parish context, usually the wardens of the relevant church are the employer.

In some cases a person may be an independent contractor as distinct to an employee. The extended definition of "employee" in the Act includes a person who works under a contract that is wholly or principally for the labour of the person. In such instance the person is considered to be an employee of the other party to the contract for superannuation purposes.

### **2. Has the employee influenced the rate or amount of super contributed for them?**

Any superannuation contribution made by an employer above the 9% superannuation guarantee which the employee has influenced or could reasonably be expected to have influenced is a reportable employer superannuation contribution. The most common example is a salary sacrifice arrangement.

The Standing Committee's Remuneration Guidelines for Parishes does not mandate a rate of superannuation for lay workers or clergy working for Anglican organisations. However it does suggest that parishes consider making superannuation contributions for lay workers above the

legislated superannuation guarantee of 9% and at a similar rate as for clergy. It is also understood that some Anglican organisations use the Guidelines as a benchmark for remunerating their clergy.

If a parish or organisation makes additional superannuation contributions above the 9% superannuation guarantee free of influence from the employee the contribution will not be a reportable employer superannuation contribution. However if the employee requests that the parish or organisation pay at the diocesan recommended rate or otherwise influences the parish or organisation's decision it would be a reportable contribution.

Please contact Michael Newman, Manager, Clergy & Church Support Services or Steve Lucas, Manager, Legal Services if you need further clarification on the above matters.

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