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Super guarantee opt-out for employees with multiple employers

Employees with multiple employers can now opt-out of superannuation guarantee from all but one employer.

Employers are required to pay 9.5% superannuation guarantee for all eligible employees. But what happens if you are an employee with multiple employers? Until recently, these compulsory payments meant some employees risked unintentionally breaching their concessional contributions caps. New laws however provide a potential solution.

Legislation that passed Parliament late last month allows an employee to apply to the Commissioner of Taxation for an employer shortfall exemption certificate to opt-out of the SG system for specific employers. This certificate prevents their employer from having a superannuation guarantee shortfall if they do not make superannuation contributions for the period covered by the certificate.

It's important to note that the exemption certificate does not require the employer to stop paying SG, it merely protects them if they fail to make SG payments. The employer may choose to continue paying SG – either because they could not reach an agreement with the employee on their total remuneration package once SG is removed, or the administration required to exclude an individual employee is too onerous.

The Commissioner will only issue an employer shortfall exemption certificate where:

- The taxpayer is likely to exceed their concessional contributions cap for the financial year (just because you have multiple employers does not mean you can opt out of SG), and
- At least one employer is paying SG for the employee.

The Commissioner might deny the certificate if it's not appropriate, the application would significantly reduce the amount of SG by an amount larger than necessary (for example, opting out of SG from the largest of the multiple employers), or where there is a contrived arrangement to take advantage of the new rules.

The due date for the employer shortfall exemption certificate is 60 days before the first day of the quarter to which the application relates.

Before applying for a certificate, it's important to understand the impact of opting out of SG. You will need to negotiate your total remuneration package with your employer and the impact of this on your tax position, understand the tax outcomes if you did nothing and exceed your contributions cap, and the impact on your retirement savings over time.