



SGD 93/6W - Superannuation guarantee: is a driver who provides courier services an employee of the courier company for the purposes of the Superannuation Guarantee?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *21 July 1999*



Notice of Withdrawal

Superannuation guarantee: is a driver who provides courier services an employee of the courier company for the purposes of the Superannuation Guarantee?

Superannuation Guarantee Determination SGD 93/6 is withdrawn with effect from today.

This Determination provided a number of indicia for determining whether a driver who provides courier services is an employee of the courier company for purposes of the *Superannuation Guarantee (Administration) Act 1992* (SGAA). It concludes that couriers are generally common law employees, or are deemed employees, because they are contracted wholly or principally for their labour, even if they provide their own vehicle. This conflicts with the decision of the NSW Supreme Court of Appeal in *Vabu Pty Ltd v FC of T* (1996) 96 ATC 4898; (1996) 33 ATR 537, where the court found that couriers engaged by Vabu were **not** employees for the purposes of the SGAA. A determinative factor for the court was the considerable expense borne by couriers in the supply and maintenance of their own vehicles as well as the fact that they were paid per result. It is considered that the majority of couriers are engaged under a similar basis as was the case in *Vabu*.

Commissioner of Taxation

21 July 1999

ATO references:

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