

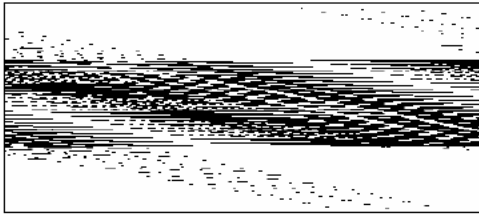


SGD 94/5 - If a contribution to a fund is made by cheque, when is the contribution made?

 This cover sheet is provided for information only. It does not form part of *SGD 94/5 - If a contribution to a fund is made by cheque, when is the contribution made?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *14 April 1994*



Superannuation Guarantee Determinations do not have the force of law. Each decision made by the Australian Taxation Office is made on the merits of each individual case having regard to any relevant Determinations and Rulings.

Superannuation Guarantee Determination

If a contribution to a fund is made by cheque, when is the contribution made?

1. A contribution to a fund by cheque is made when the cheque is received by the trustee of the fund, unless the cheque is subsequently dishonoured (*Tilley v. The Official Receiver* (1960) 103 CLR 529). If the cheque is dishonoured, a contribution will not have been made at all.
2. If a cheque is post-dated, the contribution will be made on the later of the day the cheque is received and the date shown on the cheque because it cannot be presented before the date shown (subsection 61(2), *Cheques and Payment Orders Act 1986*). Again, a contribution will not have been made if the cheque is dishonoured after presentation.

Example:

Kylie posted a \$600 cheque to a superannuation fund on 11 August 1993 to cover contributions for 1992-93 for her employees. The fund received the cheque on 13 August. On 16 August the cheque was cleared, and the fund distributed the money to each employee's account on 17 August. Kylie met the 14 August deadline, as the fund received the cheque on 13 August. However, if the cheque had been dishonoured on 16 August, then the contributions would not have been made on time.

Commissioner of Taxation

14/4/94

FOI INDEX DETAIL: Reference No. I 1217216

Previously issued as Draft SGD 93/D9

Related Determinations:

Related Rulings:

Subject Ref: timing of payments; payment by cheque; contribution; post dated cheques; dishonoured cheques

Legislative Ref: Cheques and Payment Orders Act 1986, subsection 61(2)

Case Ref: *Tilley v. The Official Receiver* 1960 CLR 529

ATO Ref: NAT 93/4529-9

ISSN 1038 - 7455