


SGD 2003/7 - Superannuation guarantee: if a contribution to a fund is made by cheque, when is the contribution made?

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 This document has changed over time. This is a consolidated version of the ruling which was published on *1 October 2003*

Superannuation Guarantee Determination

Superannuation guarantee: if a contribution to a fund is made by cheque, when is the contribution made?

Preamble

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

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) of the *Cheques Act 1986*). Again, a contribution will not have been made if the cheque is dishonoured after presentation.

Example 1

3. *Kylie posted a \$1,600 cheque to a superannuation fund on 23 April 2004 to cover contributions for the 1 January 2004 to 31 March 2004 quarter for her employees. The fund received the cheque on 26 April. On 30 April the cheque was cleared, and the fund distributed the money to each employee's account on 3 May. Kylie met the 28 April deadline for superannuation contributions, as the fund received the cheque on 26 April. However, if the cheque had been dishonoured on 30 April then the contributions would not have been made on time and Kylie would be liable for the superannuation guarantee charge.*

Date of Effect

4. This Determination applies from 1 October 2003. It replaces SGD 94/5 which issued on 14 April 1994. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Determination.

SGD 2003/7

Commissioner of Taxation

1 October 2003

Previous Rulings/Determinations:

SGD 94/5

Subject references:

- timing of payments
- payment by cheque
- contribution
- post dated cheques
- dishonoured cheques

Legislative references:

- Cheques Act 1986 61(2)

Case references:

- *Tilley v. The Official Receiver* 1960 103 CLR 529
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