



# ICCA NEWS

October 2011

## Special points of interest:

- Are your workers employees or contractors.
- Offering employees a choice of superannuation fund.
- Paying superannuation fund expenses for employees.
- Employer obligation to keep proper superannuation records.

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## Contractors, Employees and Super

### Are your workers employees or contractors

The ATO advises it is continuing to conduct field work to identify whether employees are being incorrectly engaged as contractors. Employers may face penalties for failing to comply with their employer obligations.

In their field audit work, the ATO is basing their decision making process on their new online tool - *Employee/contractor decision tool*. The tool is an easy way for head contractors to assess their exposure to Superannuation Guarantee Charge (i.e. 9% Super) on ABN contractors.

We would also recommend readers with concerns to access our 18<sup>th</sup> Aug 2011 Newsletter on this topic from our web site.

### Offering employees a choice of superannuation fund

We again remind employers that employees can choose the superannuation fund you pay their super into. This right of choice applies to all employees who are either:

- employed under a federal award
- employed under a former state award, also known as a 'notional agreement preserving state award'
- employed under another award or agreement that does not require super support

- not employed under any state award or industrial agreement, including contractors paid principally for their labour.

Employers must provide these employees with a *Standard choice form* within 28 days of the day they start work with you. Once your eligible employee chooses a super fund, you have two months to arrange to pay contributions into that fund.

### Paying superannuation fund expenses for employees

If you have an agreement with your employee's superannuation fund to pay expenses like insurance premiums and administration fees, these expenses will count towards your employees concessional contributions cap. If your employees exceed their cap, they will have to pay extra tax.

Employers have an obligation to advise employees if they pay super fund expenses for an employee so that in turn the employee can properly manage their obligations.

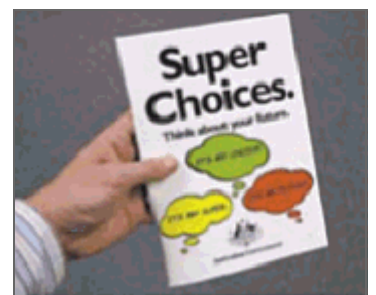
### Employer obligation to keep proper superannuation records

Employers with superannuation obligations for employees are required keep adequate

records showing the amount of super paid for all your eligible employees. Super records should include:

- how you calculate any reportable employer super contributions
- how you calculate each of your employee's salary or wages and ordinary time earnings
- copies of relevant salary sacrifice agreements you entered into with your employees
- copies of relevant industrial agreements with your employees
- evidence that you offered your eligible employees a choice of super fund.

Further employers are required to keep super records for five years. Scanned and/or computer generated records, are subject to the above, sufficient to meet the employers obligations for record retention.



For further information on any of the above items please contact Kim Macarinas from our office.