



AUSTRALIA ALLOWS PARTIAL SUPER GUARANTEE OPT-OUT

*By Mercer's Paul Shallue, Fiona Webster and Stephanie Rosseau
21 Oct 2019*

Certain high-earning individuals in Australia who work for multiple employers can partially opt out of the Superannuation Guarantee (SG) to avoid breaching their concessional contributions cap in a financial year, under [the Treasury Laws Amendment \(2018 Superannuation Measures No. 1\) Bill 2019](#). The Australian Taxation Office (ATO) has published information on the partial opt-out measure, which received Royal Assent on 2 Oct 2019, and application [forms](#) are now [available](#).

HIGHLIGHTS

- Employees must apply for opt-outs and can nominate one or more employers to receive the opt-out request. However, employees must still receive SG contributions from at least one employer for each quarter.
- Employees must submit an opt-out application to ATO for each financial year at least 60 days before the start of the first exempt quarter. However, for the quarter ending March 2020, applications will be accepted until 18 Nov 2019.
- When ATO approves an application for exemption, nominated employers will receive an “employer shortfall exemption certificate.” The certificate cannot be revoked or changed and will be valid for up to four quarters in any one financial year. The certificate means the employer won't be liable for the SG charge for not making SG contributions on the employee's behalf or face other consequences.
- Nominated employers subject to an employee's partial opt-out don't have to agree to it. For example, the employer and employee might disagree on the terms of an alternative remuneration package for the relevant quarter, or the employer might not have enough time to adjust payroll arrangements. Employers also can continue to make SGs on the employee's behalf. The opt-out doesn't change an employer's obligations under a super fund agreement or a workplace award or agreement.

RELATED RESOURCES

Non-Mercer Resources

- [Super Guarantee Opt-Out for High Income Earners With Multiple Employers](#) (Australian Taxation Office, 7 Oct 2019)
- [Treasury Laws Amendment \(2018 Superannuation Measures No. 1\) Bill 2019](#) (Parliament of Australia, 2 Oct 2019)

Mercer Law & Policy Resources

- [Australia Mulls High-Earner Partial Superannuation Guarantee Opt-Out](#) (12 Aug 2019)

Note: Mercer is not engaged in the practice of law, accounting or medicine. Any commentary in this article does not constitute and is not a substitute for legal, tax or medical advice. Readers of this article should consult a legal, tax or medical expert for advice on those matters.