Employers who don't pay super face up to a year in jail

John Collett

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For the first time, employers who fail to follow the Tax Office's direction to pay super entitlements to their employees will be subject to court-ordered financial penalties as well as up to 12 months' imprisonment.

And directors of companies that don't pay super will come in for special attention with a "director identification number" to help the Tax Office identify those directors who are ripping off their employees.

Employers are legally required to pay 9.5 per cent in superannuation to every employee, including part time and casual employees, over the age of 18 earning more than $450 gross a month.

The Tax Office estimated that in 2014-15 there was a $2.85 billion-a-year shortfall, or a 5.2 per cent gap, in what employers should be paying their employees in super and what was paid.

In 2015, the government had plans to reduce the penalties for employers who did not pay their employees' superannuation entitlements to very little.

Under those proposals, which were part of its "reducing red tape for business" campaign, from the middle of 2016, all employers, not just small employers, would have been liable for a much smaller penalties, an administrative fee of less than $20 or $30 for each employee whose super entitlement was not paid.

The government's new approach is contained in its draft superannuation compliance bills that have just been released for consultation.

The new laws come from the recommendations of the Superannuation Guarantee Cross-Agency Working Group, which completed its report into non-payment of super almost a year ago.

As well as employer penalties, the superannuation compliance bills include making "single touch payroll" mandatory for all employers, including for small employers where the problem is greatest, from the middle of next year.

Also, from the middle of this year, super funds will have to report each payment made to them by employers into their employees' super accounts to the Tax Office, when the payment occurs. That should lead to a more timely response by the Tax Office to superannuation guarantee non-compliance.

The working group also recommended closing the loophole used by unscrupulous employers to short-change employees who sacrifice some of their salary in super.

The loophole is where the employee salary sacrifices some of their salary and the employer uses this lower gross salary as the basis for calculating the super guarantee payments.

The government introduced legislation to close the loophole last year, and will progress that legislation along with the broader superannuation compliance bills.

Many of those who are underpaid super work part time and casually and work for smaller employers.

Part of the reason for the extent of the underpayment problem is that it has been largely up to employees to raise the issue with their employers, or to raise it with the Tax Office.

That's something many workers, especially those with less job security, are reluctant to do.

Twitter: @jcollett_money

This story was found at: ***http://www.theage.com.au/money/super-and-funds/employers-who-dont-pay-super-face-up-to-a-year-in-jail-20180126-h0oupi.html***