

Plant & Associates

Contractors and super entitlements

If you pay your contractors under a contract that is wholly or principally for labour, you have to pay super contributions for them. This is even if the contractor quotes an Australian business number (ABN). These contractors are considered your employees for **Superannuation guarantee** purposes.

Generally, a contract is principally for labour if more than half of the value of the contract is for the person's labour, which may include:

- physical labour
- mental effort, or
- artistic effort.

The minimum super amount you have to pay is 9.5% of each eligible employee's **earnings base**. Your contribution should be calculated only on the labour component of the contract.

Ordinary time earnings are generally what your employees earn for their ordinary hours of work, including:

- over-award payments
- bonuses
- commissions
- allowances.

Some employers relieve themselves of their tax withholding and superannuation guarantee obligations by mistreating employees as contractors. Often they will pressure employees to obtain an ABN. By treating employees as contractors it reduces their labour costs by avoiding PAYG withholding and compulsory super payments to eligible employees.

Employers need to be aware that an employee with an ABN does not necessarily qualify them as contractors – the specific conditions under which the worker is engaged need to be considered.

Employees:

If you are an employee, we can advise you when you are entitled to an ABN as well as discuss how your tax and super is affected when you enter the business tax system and you are no longer an employee.

Employers:

Please call us and we can provide advice in determining whether your workers are employees or contractors. We will give you guidance on your PAYG withholding and super obligations and discuss with you the consequences of 'sham' contracting. We can also help you apply for payment arrangements on your tax liabilities.



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Plant & Associates
Accounting, Tax and Business Advice