

How to set up a salary sacrifice arrangement

What is salary sacrifice?

Salary sacrifice is an arrangement by which an employee agrees to forego part of their future salary or wages in return for their employer providing benefits of a similar value. An employee's salary can be sacrificed into a variety of benefits, including car fringe benefits and expense payment fringe benefits, but in this factsheet we consider one common scenario – salary sacrifice into superannuation.

What are the benefits of salary sacrifice?

For employees, the benefit of salary sacrificing into superannuation is that the monies will be taxed at a maximum of 15% in their superannuation fund. For many employees, this is a lower tax rate than applies to their salary or wages, so they save tax.

For employers, salary sacrifice arrangements can be a way of offering employees a non-cash benefit that is not considered a fringe benefit for tax purposes – saving both employer and employee time and hassle in reporting Fringe Benefits Tax. Also, employers are generally able to claim a tax deduction on the amount they contribute to an employee's superannuation fund.

How do I set up a salary sacrifice arrangement?

A written agreement, signed by both employer and employee, is needed to start a salary sacrifice arrangement. The written agreement can be detailed, or as simple as, for example: 'I, [*employee name*] request that \$100 be deducted from each monthly salary from [*date*] onwards and contributed to [*name of super fund*] as a salary sacrifice contribution'. Both parties should retain a copy of the agreement for at least five years for their tax records.

Be aware of the following points before entering into a salary sacrifice agreement:

Salary sacrifice cannot be retrospective

You cannot salary sacrifice wages that were earned before the salary sacrifice agreement started.

Timeframe for employer to contribute salary sacrifice to employee's super fund

There is no legal requirement for an employer to contribute salary sacrifice contributions to an employee's super fund regularly. The salary sacrifice agreement can address this by specifying how frequently the employer must forward salary sacrifice contributions to the super fund.

Super guarantee payment is calculated on the reduced salary

Employers are required to contribute a minimum of 9% of an employee's ordinary time earnings (OTE) to a complying superannuation fund – this is called the superannuation guarantee. As entering into a salary sacrifice arrangement reduces the employee's OTE, it will reduce the amount of super guarantee that the employer is required to pay. The salary sacrifice agreement should specify that the superannuation guarantee will continue to be calculated on the employee's OTE before salary sacrifice is taken out.

Salary sacrifice contributions can be counted towards the mandatory 9% super guarantee contribution

Salary sacrifice contributions can legally be used to discharge the employer's obligation to pay the superannuation guarantee. It is therefore advisable for the salary sacrifice agreement to address this possibility by specifying that the employer will continue to pay the super guarantee in addition to the voluntary salary sacrifice contributions made by the employee.