

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

2016 - 2017

Division/Agency: Retirement Income Policy Division

Question No: 490

Topic: Superannuation in the sharing economy

Reference: Written

Senator: Marshall, Gavin

Question:

Is the Department concerned workers in the sharing economy are not paid superannuation.

Answer:

As in other sectors of the economy, whether superannuation guarantee contributions must be paid on behalf of workers in the sharing economy depends on the nature of their employment relationship.

For superannuation guarantee obligations to exist there must be an employer-employee relationship. Where the employer-employee relationship exists the employer is generally obliged to make superannuation contributions on behalf of the employee. Contractors paid mainly for their labour are employees for superannuation guarantee purposes. If the contract is with someone other than the person who will actually provide the labour – for example, with a company, trust or a partnership – there is no obligation to make contributions for that person.

In some industries or businesses it can be difficult to ascertain whether the individuals should be treated as an employee or not for superannuation guarantee purposes. The Australian Taxation Office (ATO) has online decision tools to assist businesses in working out whether a particular arrangement is subject to superannuation guarantee obligations or not.

Where a business is incorrectly treating its employees it can be reported to the ATO. The ATO investigates all complaints about unpaid superannuation from employees, as well as complaints received from reliable third parties. Additionally, the ATO proactively reviews employers where there is evidence of non-compliance with superannuation obligations.