Transcript of ALMBC Emergency Superannuation Q&A 20 July 2026

If you have a specific topic you are interested in, then do a search (Command F on a Mac or Control F on a PC) and type in the exact word or phrase you are seeking information on.

Ant McKenna ALMBC: Hi there, everybody.

A quick disclaimer before we kick in. Obviously, we're not here giving you legal or financial advice, so anything we say, make sure you check and get your own advice before you implement any processes following this presentation.

I'd like to acknowledge the Traditional Owners of the lands that we're gathered on. I'm in Brisbane, on Turrbal and Yagarra country. I live on Kabi Kabi country on the Sunshine Coast, and grew up on Wurundjeri country in Victoria. I acknowledge the Traditional Owners of all those lands and pay my respects to Elders past and present.

About the ALMBC. We're a not-for-profit organisation with a stack of members all across the country, all sole traders and small businesses, all about the grassroots live music industry. We lead, or try to lead, the national conversations on issues like ticketing transparency, insurance, support for grassroots venues and festivals, ticket levies, implications of global ownership, precinct development and planning parity, funding parity, superannuation and stacks more. Coming up, we've got a stack of things across the country: something coming up in Canberra, the Indie-Con breakfast on the 31st of July, a session at WAMCon in mid-August, some great fun at BIGSOUND, and then a professional development program with the Yours and Owls Festival on the 4th of October.

The focus of this session: the first 15 minutes will be some facts from our resident expert, Kylie, who I'll introduce in a second, then straight onto Q&A for about 45 minutes. Kylie and I can stay on afterwards if we need to. What we're trying to do is gather data and stories for the Tax Institute and ALMBC submissions by the 31st of July, as well as hearing your questions and trying to answer them where we can.

I'd ask everyone to stay on mute. If you have a question, put it in the chat and we'll go through those as we move into question time. We're not here to have a whinge or attack anyone or bring anyone down. This is about positive discussion. That doesn't mean you can't say this is hurting me in this way or that way, but we're not here to attack anyone or attack the government. If someone is being disrespectful, I'll shut it down, and if it happens again, I'll remove you from the session.

So, Kylie Thompson. We're incredibly lucky. Kylie is an exceptionally skilled and experienced accountant who runs her own practice, Sorrento Strategic. She's won multiple awards, she's represented on multiple groups and institutions across the country, and she's the Treasurer of the ALMBC. I'll hand it straight over to Kylie.

Kylie Thompson: Thanks, Ant. Welcome, everyone. I spoke to Ant last week. I'm on social media a lot, especially Facebook, and I'm in a lot of groups there. I run a group I call Music

Kylie, which has around 2,000 musicians in it, and I find it's the best way to communicate directly with a lot of my clients, because many of them are young, emerging musicians.

My practice, Sorrento Strategic, celebrates 28 years in October, and I've really made it my niche to specialise in the Australian music industry. I'm very passionate about building sustainable music careers for musicians. With 28 years of experience, I've had exposure to all sorts of musicians, from people who just do gigs on the weekend alongside a full-time job, through to full-time professionals. I'm from WA, so we have a lot of FIFO workers who love to do a fair bit of music when they're back on their rostered time off, and it goes the other way too. The young players love getting the FIFO gigs where they go up and entertain the workers on site.

One thing that really concerned me in the last couple of weeks was the big jazz festivals cancelling and referring to payday super as the cause. I've also seen a lot of misinformation online, and these things spread. So what I wanted to do today is give a basic background. If you go on the ALMBC website, we did a big forum in June. It's recorded there, along with all my slides. I've done a little update that we're going to fly through, because we know there are lots of questions. Ant's been getting them all day, and we've been getting them all week. We'll fly through the basics first, then what's changed in the last month or so in super, and then we'll open up the floor. If I can't answer something, we'll follow up and get back to you later, or I'll let you know it's too intricate and you'll need to seek your own advice from your professional tax agent. Bookkeepers are pretty knowledgeable on superannuation too, especially registered BAS agents.

So, super. What is it? Hopefully the money's there for you at the end of the day, when you're nearing my age and starting to think about retirement. I'm sure most of you know that in 1992 the Superannuation Guarantee Act came in. Those of you who've held a salary and wage position will know that back then a percentage started going into your super, and it's now up to 12% of your gross salary. What you may not be aware of, and what caused this issue to come to a head, is that four years ago, on the 1st of July 2022, the government dropped the minimum threshold for paying super, which was $450 in a calendar month. By dropping that threshold, it meant that if you were paying an employee, or someone deemed to be an employee for super purposes, you were up for the super the minute you paid them, instead of only once they passed that minimum.

So what is an employee? We all think we know. If you've got a job and an employment agreement, it's very clear who's an employee in the common sense of the word. So where does the music industry come into this? There are employees in the music industry. An example off the top of my head in WA is the musicians who are employees of WASO, the West Australian Symphony Orchestra. But across the industry, everyone thinks, well, we're all independent contractors, we look after ourselves, we're responsible if anything goes wrong, and I've got my own ABN so I'm responsible for my own super.

This is where people are getting caught out. Live performers have been deemed employees for the purposes of super since 1992. So why are we talking about it now? I think there are two things. First, the $450 limit was dropped four years ago. From my 28 years of experience, $450 in a calendar month was a lot for the bulk of musicians unless you were gigging regularly or touring with one of the larger bands, so it may not have been something that was discussed. Once that limit was dropped, the issue came out into the open a bit more. Second, the reason it's being talked about now is that on the 1st of July, three weeks ago, payday super came in. That's had a lot of press, and it seems to have really brought the issue to a head.

This is the original section from 1992. It specifically says that if a person is paid to perform or present, or to participate in the performance or presentation of, any music, play, dance, entertainment, sport, display or promotional activity, or anything similar involving the exercise of intellectual, artistic, musical, physical or other personal skills, they are an employee of the person liable to make the payment.

Ant McKenna ALMBC: And Kylie, when did that Act come out?

Kylie Thompson: 1992. This was in the original 1992 Act.

Ant McKenna ALMBC: That's a long time ago.

Kylie Thompson: Yeah. And it very clearly captures a musician performing. In my experience, the theatre industry, the dance industry, the film industry, acting and radio all get paid as salary and wage earners, or casual salary and wage earners, and they've all had their super paid. I did a talk on super for Performing Lines about ten years ago. I think that's largely because most of those industries had the union, the MEAA, behind them, and it fought for those rights. The contemporary music industry, on the other hand, is very much every person for themselves. Unless you involve yourself in some networks and go along and learn things, everyone's just doing their own thing. The peak bodies do try to educate everyone, all the members of AMIN. I've got a handout I obtained from Music NSW four years ago that was backed by the NSW Government and APRA AMCOS. So there's been information out there. It's just that a lot of the industry hasn't really kept across the latest changes. As you know, Ant, this is my fifth talk with the ALMBC. It's actually one of the reasons I discovered the ALMBC and became a board member. Someone saw me do the super talk for AIR on the Women in Music Mentor program. She was a board member of the ALMBC and said, I think you need to come along.

Moving on to the reason we're here. The ATO put out a draft ruling in June that has had a lot of press, but it may have been a little misconstrued as to what it represents. It's really focused on tripartite working arrangements, which means where you've got the venue or the festival, the booking agent or management in the middle, and the artist. The draft ruling is about clarifying who is responsible for the super. It's not trying to reinvent the wheel. It's trying to get some clarification on law that's already in place. The Tax Institute is currently preparing a submission on this ruling, and when they make a submission, especially on anything to do with payday super, they do it in line with all four professional bodies I belong to, including CPA Australia, Chartered Accountants and the Institute of Public Accountants. So all of the professional tax bodies in Australia will be putting in this submission on the draft ruling, with recommendations we hope the Tax Office might take some notice of. And this is where we're calling out to everyone in tonight's Q&A session. We've got a Google form set up.

Ant McKenna ALMBC: I'll put all of these links up in the chat.

Kylie Thompson: What we really need, and I spoke to the Tax Institute representative who's responsible for submitting this in a week or so, is real-life examples. The examples the Tax Office gives are really basic, and you're the ones living in the real world. If you want clarity, this is your chance to give us a real-life example of why this should or shouldn't apply, how it's working, or how difficult it is. That's what we're chasing.

Realistically, the big thing about this draft ruling is that it comes down to the contract that's in place, and I believe that's exactly where the music industry falls down, because there are a lot of verbal contracts out there. When I started investigating this four years ago, I put on a workshop at the Crane Tavern near my work and tried to get every booking agent in Perth to come along, because it's all very well me talking to my artists and saying, make sure you ask for your super, it's your right. But I thought, if I get all the big booking agencies in, let's hear their side of it and let them know as well. I think that was quite successful in Perth. It was interesting, though. One booking agent held out for about ten months, until April of that year, when enough of my clients were going to him asking, where's my super? He finally gave in and said, I think I need to pay some super here. But when I went back to my clients, they said, well, he's taken it out of all our gig fees. Where I used to get $500 a gig, I'm now getting 10.5% less. I said, well, what does your contract with him say? And all of these arrangements were verbal agreements. So I feel that's definitely a letdown in the industry. The reality is, it's like anything in business. A legal contract goes a long way. The same applies if you're the middle party, like the booking agent or the manager. It's all about the agreement in place. A lot of people say, I'm the manager, I'm taking my commission. Should that have super on it? No. That's really a commercial arrangement, and there should be a contract that says, I'm entitled to X amount of fee on the turnover, with the calculation set out. Again, it comes back to the contract.

Ant McKenna ALMBC: So Kylie, you're talking about the importance of the contract, and that's what the ATO looks at. But for a lot of these community festivals and not-for-profit organisations putting on gigs, it's a matter of come and turn up and play. There's just nothing in place.

Kylie Thompson: That's what this draft ruling is looking at. Even a festival should have a contract with every artist performing, so it's set out in black and white what they expect and who's going to get paid.

Ant McKenna ALMBC: Okay, we've just got a couple more minutes of facts before we get to questions. Do you want me to go on to the next slide? Anything else from here on the ATO principles?

Kylie Thompson: Not really. Everyone can have a bit of a read. I've made a summary of the new draft ruling, but it'd be great to have people coming back with real-life examples, so let's keep moving. Again, it's really about the contractual relationship. Paul just said in the chat, yes, a contract can be verbal, but I'd like to see you prove that in court, or to the Tax Office if they come looking.

That's the main thing on the contractual side. Now, the other big thing that has changed is that the Tax Office updated a section of its website on the 27th of June. People are thinking it's brand new because it says the 27th of June 2026, but all they've done is clarify and give more of a breakdown of how Section 12(8) works, with some examples. This is not new law at all. It's a revised section of their website, and it seems to have everyone thinking this has all just come in, but I can very clearly tell you it's not new. Payday super is new, and that has obviously caused quite a bit of concern.

I've got a bit of a breakdown here, and you can all go online, look at this new section on the Tax Office website and have a read. Again, that's part of this submission. If we can have some more real-life examples, more reality, that's what the Tax Institute is chasing. They're essentially a policy advocacy body, and their role is to give the Tax Office information. Because I'm a Tax Institute State Councillor, they've said, Kylie, with your insight into the industry, we'd really appreciate you gathering that information. I'm asking you to turn it around quickly, because I've got to give it to them next weekend so it can be included in the submission. I think it can only help, and it might get them to see things in a different light and realise that a particular example doesn't actually fit the box they've drawn. They've put out the draft ruling, and you never know if you're going to make a difference, but if you don't make a submission, you'll never know. The Tax Institute said they couldn't claim the update to the website on the 27th of June was due to their advocacy, though the professional bodies do advocate on this matter, but there have been changes made and more examples added. So it just shows you it's worth doing.

Ant McKenna ALMBC: And Kylie, if people don't pay super, what happens?

Kylie Thompson: Well, it gets really interesting from the 1st of July onwards. Everything's meant to be done electronically, and because you should now be paying super when you pay people, the ATO is going to be onto it a lot more. We've definitely had an insight that they're going to be a little more lenient for the first 12 months of payday super. But realistically, some of the penalties, which I highlighted in our big one-hour session back in June, can be up to 60% of the super you owe. I don't want this session to be scaremongering, though. It's more about answering the questions I can, and if I can't, I'll go and try to find the answer.

Ant McKenna ALMBC: We wanted to mention Creative Workplaces, Kylie.

Kylie Thompson: Yes, and that's why we put it out there last night. I was very kindly asked to be involved. Creative Workplaces have rewritten the whole section on superannuation on their website. When I first started speaking to them last November, it was fascinating to me that it's the most visited section of their website. They realised it needed to be updated, made easy to use, and given some real-life examples, and the Tax Institute assisted with that process. That's why I was saying go and have a look at it. They've got a lot of links straight into the ATO, straight from the horse's mouth, about procedures. I was involved with the launch in Adelaide in June, and it's ongoing. Creative Workplaces are going to keep putting real-life examples together, doing some short animations, and trying to get this information out there. Any feedback that comes through the Tax Institute will feed into it too. We're all about building knowledge in the industry, and we can advocate for change if we’re aware of the grey areas and the real impact areas. That’s what we’d like to help with tonight.

Ant McKenna ALMBC: As I mentioned, I’ll put all of these links in the chat, and they’ll be sent out afterwards as well. From here, we want you to share your data with the ALMBC and the Tax Institute using that web form. We’re meeting directly with the Tax Office, we’re meeting with Tony Burke’s advisor, and the ALMBC and the Tax Institute are both making their own submissions to the ATO.

So, on to Q&A. We’ve got a stack of questions already in there, Kylie. We might start with some of the last ones that came through, around the role of the manager, the agent or the band leader. Who pays whom? Who’s responsible? How does that all work?

Kylie Thompson: I have a number of managers on my books as well as artists, and that relationship can vary a lot in how it operates. As a general rule, the deal is a percentage of turnover less certain expenses. You’re generally not paying your manager on salary and wages with a super obligation. There’s usually some kind of arrangement. Written is better than verbal, though there have been some very big verbal agreements that have lasted years and years. Whatever the arrangement is, it generally doesn’t represent the manager being an employee of the band.

Ant McKenna ALMBC: And what about a band leader who’s ringing up their mates to say, come and be my session musician?

Kylie Thompson: This is one area where we’re going to include an example in the submission. It’s already lined up, because it’s one of the biggest problems everyone sees. You have the sole trader band leader who gives the festival or the venue their personal sole trader ABN on behalf of the band. That band might have three regular members, but the leader has always organised everything. They’re the coordinator, they put in the hard yards, and for that they might say to the band, I’ll take an extra 10%. But it’s all on them. If you look at the technical law, the person getting paid is the sole trader on the ABN, and the person paying that sole trader is responsible for putting 12% into that person’s super fund. I used this example back in June. Kylie’s got the band. It’s $1,000 for the gig, there are four of us in the band, but it’s under Kylie’s ABN. Whoever pays me has to put 12% into Kylie’s super. Kylie then has to put 12% of each $250 share into the band members’ super, if she negotiates that with them, or it comes out of her own pocket, because she’s lost $120 into super that she can’t touch for another 20 years. That’s the technical way it should be approached. In speaking to the Tax Institute today, that’s definitely one of the things we’re going to raise, because you’ve got one person carrying all of that.

We’ve done talks before, and Ned Walker’s here with his Hot Giggity platform. He’s actually come up with a way to handle this in his software. He’s taken the hard yards out of the festival paying the four of us. His system is set up so there are four payments to four band members, with $30 each going into their super, and it’s all done in the software. Best of all, the venue booking the band doesn’t have the headache of sorting all of that out.

Ant McKenna ALMBC: And it happens automatically, so the invoices go out and the super’s automatically paid.

Kylie Thompson: That's about it, yeah. Now, the way around that issue is for the band to become an entity, whether that's a partnership, a trust or a company. With any of those entities, unlike a sole trader, the people paying the band have no obligation to pay super. The entity has the obligation to pay super to the people within it, however that payment arrangement is made.

Ant McKenna ALMBC: Just say that again, Kylie, because that was one of the questions as well. If you're a sole trader, you're owed the super, but if you're a partnership?

Kylie Thompson: No. The person paying you has no obligation whatsoever. Partnership, company or trust, no obligation.

Ant McKenna ALMBC: Trust, Pty Ltd. Which is another complication in terms of invoicing and that kind of thing, but it's great to know that if you are a company, a trust or a partnership, you look after your own super yourself.

Kylie Thompson: Yes, but think it through carefully. I had this question in the last couple of weeks. A sole trader who's getting up there in her career asked, am I going to save anything by going from a sole trader to a company? I'm paying my guys in the band super anyway. What's the benefit of paying a couple of thousand dollars extra a year to be in a company? Am I at that level? She's very meticulous in weighing up the costs. If she does go to a company, she'll still have session band members, and she'll still have to pay their super anyway. So you really need proper professional tax advice from your accountant about whether it's right for you.

The other huge one for me is the partnership. When this first came out four years ago, the obvious way to deal with it for a real, permanent band was to move on from being a sole trader, do the right thing, and get a partnership ABN and a partnership agreement. But that's not appropriate for everyone. It might suit the kids coming straight out of WAAPA with their new bands in their 20s, when they don't own anything and don't have any complications. But a guy in his 50s who plays on his FIFO time off doesn't want to be in partnership with a whole lot of other people across his eight tribute bands. If something goes wrong in a partnership, you're jointly and severally liable. So the partnership structure is not appropriate for everyone, and again, that's another conversation.

On top of that, the new anti-money laundering laws have just come in alongside payday super for us accountants. We're really up against the wall now as to how far we'll even go with structuring advice, because of the identification processes layered on top of everything. I got a quote back from the lawyers, and what was a set fee has now gone up $75 per person to identify each person and run the proper checks. So if you've got four people in a band, all of a sudden there's another $300 on the cost of setting up a company. And then the lawyers have to identify them, and the accountants have to identify them as well. There's a lot of complication coming into everything at the moment, not just payday super on the 1st of July.

Ant McKenna ALMBC: Kylie, we've got a question about the 30 hours a week. Tell us a bit about that.

Kylie Thompson: Yes, that one. I don't like the way the ATO has presented it on their website. I got a question about it a week ago, and it looks really odd the way it's laid out, so I investigated it properly yesterday. The 30 hours applies to two things. One, if you're paying anyone under the age of 18, a minor, you don't have to pay their super unless they work more than 30 hours a week. And two, if you're paying someone under a private or domestic arrangement, you don't have to pay their super unless they work more than 30 hours a week. So the 30 hours a week has got nothing to do with Section 12(8) of the SG Act and paying musicians. It's in the same Act, under Section 12(11), and it's aimed more at cleaners, gardeners, that sort of thing. It's nothing to do with this, but it's badly presented on the website, if you ask me.

Ant McKenna ALMBC: And someone's asked to confirm that if you're a not-for-profit, you still have to pay super. That's correct?

Kylie Thompson: Yes. Not-for-profit is really about your status as an entity with the ATO. It's got nothing to do with what you do within the not-for-profit. If you run a festival, and I've been on the boards of a few, and you're paying any sole traders as musicians performing at that festival, you need to pay the 12% super.

Ant McKenna ALMBC: And what about if you're retired, or you're just doing it as a hobby, and you use a hobby form?

Kylie Thompson: The hobby form's a beauty. In four years I have not been able to get a direct answer from anyone, and I've gone everywhere, on whether the Statement by a Supplier form rules you out of paying super. I actually just had a conversation about this, and Phaedra has said it's okay for me to refer to her directly.

Ant McKenna ALMBC: And who's Phaedra, sorry?

Kylie Thompson: Phaedra runs the Nannup Festival, which has been going for about 34 or 35 years.

Ant McKenna ALMBC: One of the early board members of the ALMBC.

Kylie Thompson: Yes, I think she got off the board as I got on. Basically, Phaedra went to WAM, and I was on the WAM board for nearly six years, right when this all came in. She'd heard about this in July 2022. Her situation, which would have applied to a lot of festivals at the time, was that she'd had funding approved on the artist fees and everything back in March 2020. Her festival runs in the first week of March every year, so with everything frozen from March 2020 through 2021 and 2022, she was finally getting excited about putting the festival on in March 2023, and then in July 2022 she found out about this law and the $450 threshold being dropped. She went straight to WAM and said, what do I do about this? I said to her, hey, we're the early adopters here on the west coast. This is now her fourth year with all her systems in place. At the time, we went everywhere trying to find out about the Statement by a Supplier form, and everyone I spoke to recommended paying the super regardless, because we couldn't get a definite answer either way, and we can't get one without a private ruling. To me, that form should cover the situation where someone genuinely says it's a hobby, and it fits the question you raised earlier about older musicians who have retired and aren't interested in any super. So what I was saying to Phaedra is that I think we should go to the ATO and get a private ruling on the hobby forms, and she's up for it. That's what we really need to do on any of these issues. The only way you get black and white from the ATO is a private ruling, but it only applies to your particular situation.

Ant McKenna ALMBC: We've got a question about merch companies. A few have been great at paying payday super, but others haven't, and have argued they don't have to pay super for a crew member. So, people standing at the stall selling merch, engaged as crew but not as employees. Any ideas there?

Kylie Thompson: I haven't actually had that question in all this time. If I was going on the basis of whether they're part of the performance, I wouldn't think so. But it all comes down to that wording, connected to the performance, and I'm not 100% on that, to be honest. They might be caught anyway, though, if they're being paid an hourly rate for their labour. If you go to the contractor questionnaire and run through it, with the fact that you're telling them where to work and so on, they'd probably get caught under that. I'm not sure you'd say they're connected to the musical performance itself, but it's hard to know. That wording is quite grey.

Ant McKenna ALMBC: We can do some more work on that, Kylie. Here's a big one. Will agents, venues and festivals have to back pay artists?

Kylie Thompson: This is a really difficult one, and I can't answer it definitively. What I can say is that the Tax Office has categorically come out and said that for payday super, over the next 12 months, they're keen to make sure everyone gets a handle on it. In terms of going backwards, there's usually a statutory limitation of two or four years depending on your entity. However, as an example, I recently took on a band that had a session musician ring the Tax Office and dob them in, and the Tax Office went back six years, because he'd joined them six years ago. So who knows? Is chasing everyone backwards in the ATO's interest? I don't think so. With the heat on this issue in the industry, I'd hope the focus stays on education, and we're pretty keen to get everyone educated, and on looking at this industry as a whole and recognising where it doesn't fit the box.

Ant McKenna ALMBC: From the ALMBC's side, we want musicians to be paid super, but we don't want all the businesses to close down because they can't afford it.

Kylie Thompson: Absolutely. I can't say how far the ATO could go back, but everyone has now heard about this as of July 2026, and we know we've got to pay the super as we pay people, within seven days. That's what everyone should really be focusing on at the moment. In terms of your prior history, I'd be going to your accountant and working through that with them.

Ant McKenna ALMBC: We've got a question from our last presentation, where we said receiving a percentage of event or gig ticket proceeds is excluded from the superannuation guarantee. So I think they're talking about a share of the box office.

Kylie Thompson: A profit-sharing arrangement, yes. This is something I saw commonly around Fringe Festival. A group of five or six musicians, actors, whoever, put on a little show for Fringe, and they can clearly demonstrate that it's their own venture and that what the show makes is ticket sales. Ticket sales aren't a superannuation item. It's what you do with the income, and who you pay, that matters. If a sole trader takes the ticket sales directly, no one's responsible for paying that sole trader's super. But if they're then paying three session performers, then Kylie's got to pay those three people super. When this all came in, it was quite common for people to put these ventures together, which makes sense in the industry. If four of you are putting on a show every night for seven nights, with all your costs coming out, and you say, let's just split it 25% each at the end, that would be a lot cleaner if you actually had a partnership, with the money going into the partnership bank account and each of you drawing out 25% at the end. That said, you could also have something written down that says, we're doing this small event for this festival and sharing the ticket sales on that basis. Again, it's all about documentation.

Ant McKenna ALMBC: And what about if an artist now goes to their booking agent and says, you need to pay me super from now on, and the agent says, that's okay, we'll just pay you 12% less on your fee and pay the super on that?

Kylie Thompson: Again, it's about the contract. That was exactly the issue I came up against with the person in Perth who took a while to accept the obligation. One, he took it out of their normal fees, and two, he said, I'm not dealing with sole traders anymore. These are the issues.

Ant McKenna ALMBC: They're the big issues, and I think we'll find fewer and fewer people wanting to deal with sole traders if there are these kinds of complications, even though a partnership or a company might not be the right choice for you. It's a complicated situation. And again, the ALMBC doesn't have an answer for that, apart from saying that paying super is the law. Venues have their own restricted budgets of what they can spend each week, but we don't want musicians to be the ones missing out on payment, because they're always at the end of the line. Do invoices need to be different now?

Kylie Thompson: The super shouldn't really be on the invoice, except perhaps as information, and never in the total. Interestingly, when I did the talk for Performing Lines seven or eight years ago, the dance industry were putting it at the bottom of their invoices, off to the left, just so the information was there. It depends on your software and how much flexibility you've got with your invoicing, but you don't ever put the 12% in the total. And there's the other side of that. If I'm paying a musician, I don't want to hand Kylie the extra $120, because I don't know that Kylie's going to put that $120 into her super. Kylie might say, I'll put $30 in mine and $30 in each of the other three members' funds, but there's no record of that. The obligation is on the person paying, not the person receiving. So you'd be silly not to make sure the 12% gets there, and gets there on time, because the obligation sits with you as the payer.

Ant McKenna ALMBC: And on the complications of our industry around who does the booking and who does the payments, there's a great question here. Our artists get a percentage of the ticket fee, but I collect the ticket fee in our business name and they invoice me for 75% of it, so I presume I pay super. If instead they set up the ticket platform and I invoice them 25% as a venue hire fee, then I don't have to?

Kylie Thompson: Are we talking about a venue, or the sole trader band leader?

Ant McKenna ALMBC: I'd say they're the band leader.

Kylie Thompson: Everyone can think of a hundred ways to get around this, but what it really comes down to is documentation. I don't want to get into the nitty-gritty of this, that and the other. All I can say is, one, if you're paying a sole trader for a performance, you're liable. And on the other hand, if it's genuinely ticket sales in a shared arrangement and it's all properly documented, then it comes down to that documentation, and you could do that quite legitimately if it's a profit-share setup.

Ant McKenna ALMBC: Someone's asking about there being no super payable on expense reimbursements or equipment hire. Tell us more about that.

Kylie Thompson: Definitely. I've seen this for years and years. The sound engineers touring with the big bands will very clearly get expense reimbursements, and there's no super on those. Then they'll hire out their gear, which is really useful for people with a lot of gear, so you split the invoice between the labour component and the hire of the gear.

Ant McKenna ALMBC: And would that be the same for an audio engineer as well?

Kylie Thompson: Yes. Each situation's different, but definitely, charging for the hire of your gear, or for driving. On that six-year audit I mentioned, we questioned the ATO auditor about the travel days for the big band. We argued travel wasn't part of the performance, but the ATO has come out very clearly in these examples including rehearsals and everything leading up to a performance, and we were told the travel days did have super on them.

Ant McKenna ALMBC: And what about if all of those costs are even higher than the performance income? Then there's no super, I suppose, if that's how you invoice it.

Kylie Thompson: If you invoiced it as, I'm on stage for this amount, and I'm charging you this for my gear to get there, then okay.

Ant McKenna ALMBC: I guess people are still trying to work out how not to pay super, but our point is that everyone should be paid super. There are way too many amazing musicians retiring now with little or no super, and we have to stop that as an industry. I'm okay if we go through a bit of a hard time to make that happen.

Kylie Thompson: My personal view, because I do a lot of work with Support Act, is that every time I see one of these older musicians get sick, or see the fundraising that goes on because these poor guys never had super, I don't think it's a big ask. There's been so much online about it in the last couple of weeks. I saw a really good argument last weekend. Venues pay super to their bar staff and everyone else. If you've got a regular musician who's keeping people coming in every week, that regular gig is part of your venue's reputation too. That said, being on the ALMBC board, I'm well aware of the hard time venues and festivals have had since COVID, and I certainly don't want to see festivals cancelling because of this. As an example, in WA, Phaedra, who runs one of the longest-running festivals, was onto this quickly, and it is possible to do. And a lot of the WA venues, once they became aware of this four years ago, started factoring the 12% super on top when applying for grant funding.

Ant McKenna ALMBC: It's not a question, but someone said they wish there was a difference recognised between full-time professional musicians and performers, and those with a separate career who play music as a hobby. The weekend warriors, that kind of thing.

Kylie Thompson: I totally believe in that, and I feel like if we go for a black and white answer on the hobby form with a private ruling, it will be worth doing. If we can rule those people out, I think that's a fair outcome. But at this stage, we can't.

Ant McKenna ALMBC: And on the conversations between artists and venues, or artists and booking agents, there are people in the chat saying they've asked for super and been given the sack, or they've asked for super and their gigs are reducing. Is there any comeback for artists, any approach they can take if that's happening? It's probably not a question for you, I suppose.

Kylie Thompson: Not really, but I've seen it for the last four years, and I think it's really sad. I have a client, a lady in her 60s, who's just won a songwriting competition, and she said, I love that gig every Sunday that I've had for 15 or 20 years, but I'm too scared to ask. They'll just go and get one of the young ones who won't ask for their super. It's sad.

Ant McKenna ALMBC: We're coming closer to the end. I'm hoping I'm getting to all of the questions. If I've missed yours, feel free to bump it or put it in the chat again to make sure we get to it.

Kylie Thompson: Someone says we need a musicians' union. On the MEAA, we were trying to get someone here today. Was it Paul?

Ant McKenna ALMBC: Yep.

Kylie Thompson: We were trying to get Paul here today, and he's certainly conscious of this area. And this is the thing, I guess. Your state bodies as well. I was saying to the Tax Institute today, and I shared the flowchart Music NSW put together four years ago, which I asked permission to circulate everywhere, that the state bodies have known about this and have been trying to educate everyone. I've done talks with Danielle from Music Victoria, who I saw is on here tonight. I think it's really important, if you're a sole trader musician, to belong to your state body, or to us at the ALMBC. Like I said, I've done five talks on this in two years. A small fee to stay in touch, or even subscribing to newsletters, is how you stay across what's going on in the industry, aside from Facebook.

Ant McKenna ALMBC: Someone said a big part of this issue is the administration that has to take place to enable these payments, particularly for smaller volunteer-run organisations, like volunteers running a festival. Any comments on that?

Kylie Thompson: I think it wouldn't hurt for Ned to do a quick spiel about his Hot Giggity platform, because I love it. I'd really like to get all of my 1,300 musicians on it, and we're working towards that. Maybe Ned can speak to it, because I don't get anything out of this other than thinking it's a great product that offers a lot of solutions to this problem.

Ned Walker: Thanks, Kylie. Hi, everybody. I'm Ned Walker. I've been a professional musician since 1993, and I played in a band called Shifter that won Triple J Unearthed in the early 2000s, so I've been in the industry a very long time. We're a professional partner of the ALMBC, and I've done a couple of these seminars with Kylie and Ant.

Very quickly, Hot Giggity is a platform to book, promote and now pay super for the live entertainment industry. We work differently to some of the other platforms out there. When you need to pay sole traders who are employees for super purposes, you register as an employer with all of your details and the bank account the super will come out of. When you create a booking in the platform, you can specify if it's just yourself, with all your super information in there, or, if it's four players, the players need to be on the platform with their superannuation information entered. You register as an employer with the super clearing house, then register all of your sole trader employees with their super details. For each booking, the system calculates the super owed for each performer, and you can trigger a payment from our platform, which tells the clearing house to take the money from your bank account and feed it through to each player's super fund. There's a full audit trail for every single booking: when the booking happened, the dates and times, the amounts, when the payments were made, and the payment reference numbers. If you use Xero, as many venues and agencies do, you've also got the option of integrating with Xero's own superannuation payment system. So we give you flexible options. Venues engaging sole traders directly can use the platform, agents exactly the same, and festivals, particularly for solving the multi-player problem.

Ant McKenna ALMBC: Ned, I'll hold you there, mate. I've probably given you enough of a plug, but thank you for coming on, and thank you for all the work you've done as well.

Ned Walker: That's fair enough. HotGiggity.com, guys. Thanks, everyone. Bye.

Ant McKenna ALMBC: And this might be the last question. Can we confirm whether there are any free onboarding clearing houses similar to what was on offer from the ATO pre-July, given the cost and administration involved? Any ideas, Kylie?

Kylie Thompson: I'm not allowed to recommend anything, because a super fund, and even a clearing house, is a financial product. That's what Ned was describing there, as he's incorporated a clearing house into his software. You basically need to do your own research, because anything to do with super is a financial product.

Ant McKenna ALMBC: And just to reiterate, if people did arrive late, none of this can be taken as financial or legal advice, including where people have been answering other people's questions in the chat. Anything that's been said tonight, you need to get your own advice before making your own decisions.

We did have just one more, which I thought was good. Can you clarify, if you were paid $400 per gig before the 1st of July, whether that venue is now obliged to pay an extra 12%? All we can say is that they are legally obliged to pay 12% super if you're a sole trader. Is that correct, Kylie?

Kylie Thompson: Yes, though if this person's done a gig, is there any contract arrangement in place? Who knows. And the 12% applied from the 1st of July last year as well. It was 11.5% before that, and 11% before that. So it's not new.

Ant McKenna ALMBC: Well, we might finish up there, and I'll end the recording. I'll put all of the slides and links in the chat before people go. And before I do finish the recording, if you want to stick around and have more of a chat with us beyond the Q&A, you're very welcome to do that.

Kylie Thompson: And just to let you know, my son Alex, who's nearly a CPA, has worked for me for the last ten years. He knows all of this, he's been doing a lot of the answering for me, and he handles all of our payday super clients. I got him to come along because he's a lot more hands-on with the administrative, day-to-day side, so he's very knowledgeable on it.