ALMBC AUSTRALIAN LIVE MUSIC BUSINESS COUNCIL

sorrento strategic accounting

MUSIC INDUSTRY SUPERANNUATION Q&A

20 JULY 2026

Australian Government

Music Australia

ALMBC AUSTRALIAN LIVE MUSIC BUSINESS COUNCIL

DISCLAIMER

The contents of this presentation are for general information only. They are not intended as professional advice for you. The ALMBC & Sorrento Strategic Accounting Pty Ltd expressly disclaims all liability for any loss or damage arising from reliance upon any information in this presentation.

AUSTRALIAN
LIVE
MUSIC
BUSINESS
COUNCIL

Acknowledgement of First Nations People and Country

ALMBC

AUSTRALIAN
LIVE
MUSIC
BUSINESS
COUNCIL

ABOUT

THE ALMBC

Not-for-profit national peak body for grass roots live music

2300 members and almost 200 financial members

ALMBC AUSTRALIAN LIVE MUSIC BUSINESS COUNCIL

Leading the national conversations on:

- **Ticketing transparency**
- **Insurance**
- **Support for grass roots venues and festivals**
- **Grass Roots Ticket Levy**
- **Implications of global ownership**
- **Precinct development & Planning Parity**
- **Funding Parity**
- **Superannuation and more.**

ALMBC AUSTRALIAN LIVE MUSIC BUSINESS COUNCIL

Coming Up:

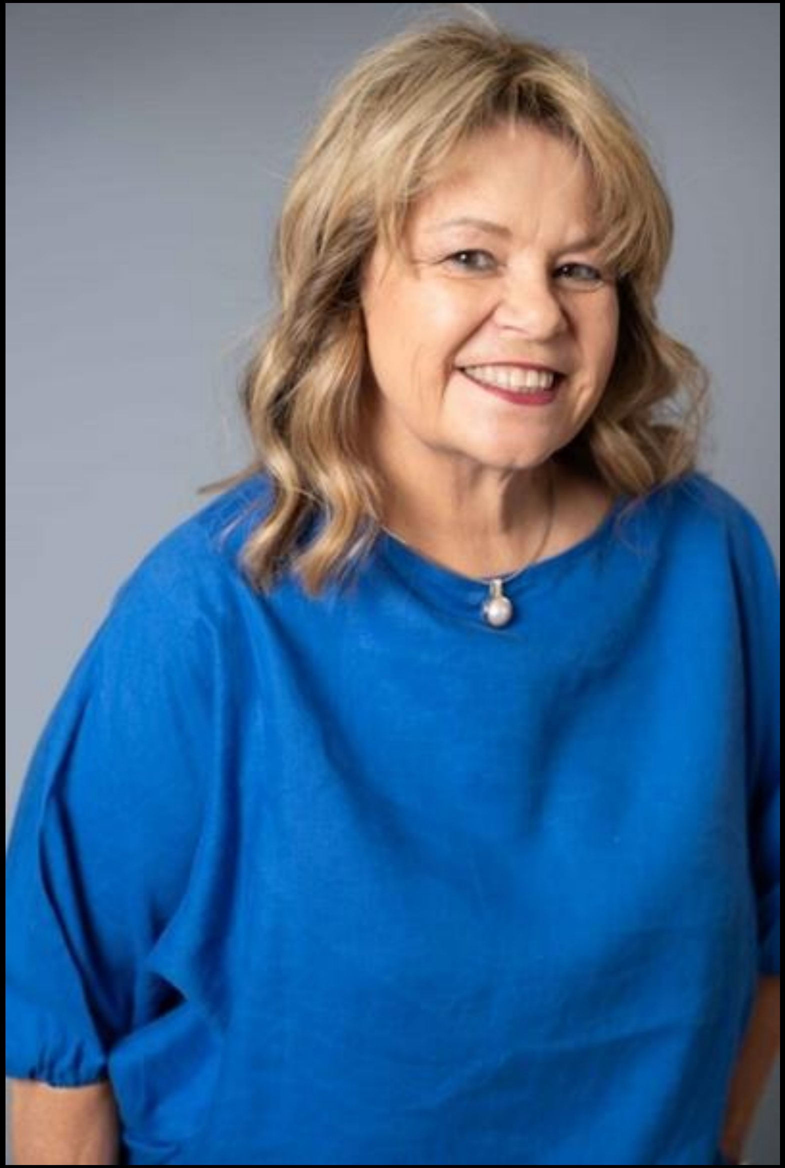
- 28 July Canberra Industry Networking
- 31 July Indie Con ALMBC Breakfast
- 15 Aug - WAMcon - Bookers & Burgers
- 1-3 Sept - BIGSOUND - ALMBC Lounge
- 4 Oct - Sound Business @ Yours & Owls

ALMBC AUSTRALIAN LIVE MUSIC BUSINESS COUNCIL

Purpose of this session

- Facts - 15 mins
- Q&A - 45 mins - we can stay on if needed
- Gather data & stories for ALMBC Submission & Tax Institute Submission - by 31 July

KYLIE THOMPSON



Kylie Thompson (FCPA) is the Managing Director of Sorrento Strategic Accounting, a specialist tax and advisory firm for the music industry.

With over 30 years of experience, she supports artists' financial **stability** and wellbeing, helping musicians build long-term, sustainable careers.

An active industry advocate and multi award-winning accountant, Kylie also champions events, grants and initiatives that strengthen the wider music community.

AUSTRALIAN
LIVE
MUSIC
BUSINESS
COUNCIL

SUPER
WHAT IS IT?

WHAT WE ALL KNOW

All Australian employers are required to make compulsory superannuation payments to their employees, in accordance with the Superannuation Guarantee (Administration) Act 1992 ("the Act").

Superannuation Guarantee was 12% from 1 July 2025

sorrento strategic accounting

ALMBC AUSTRALIAN LIVE MUSIC BUSINESS COUNCIL

WHAT WE MAY KNOW

As a minimum that employees (including casuals) be paid super if:

- They are over 18, OR under 18 and work more than 30 hours per week; and
- ~~Earn $450 or more per month (before tax).~~

sorrento strategic accounting

ALMBC AUSTRALIAN LIVE MUSIC BUSINESS COUNCIL

WHAT IS AN “EMPLOYEE”?

In a common law employment relationship - there is a 'contract of service’.

A 'contract of service' is based on a 'mutuality of obligation'; that is, the employer makes an offer of work with accompanying remuneration and the employee accepts the terms of the offer by performing the work.

IS THIS DIFFERENT FROM AN INDEPENDENT CONTRACTOR?

Yes. A distinction has been drawn at common law between 'employees' and 'independent contractors'. In essence, an employee is employed by an employer on a contract of service (an employment contract), and an independent contractor is engaged by a Principal on a contract for service.

The law is very developed in this area, where courts now know who is deemed an employee and who is an independent contractor.

However, the discussion about the difference is not relevant to this discussion for reasons as follows.

Live Performers are deemed “employees” for the purposes of superannuation.

ALMBC

Why is the music, events and entertainment industry talking about this now?

SECTION 12 OF THE ACT:

(8) The following are employees for the purposes of this Act:

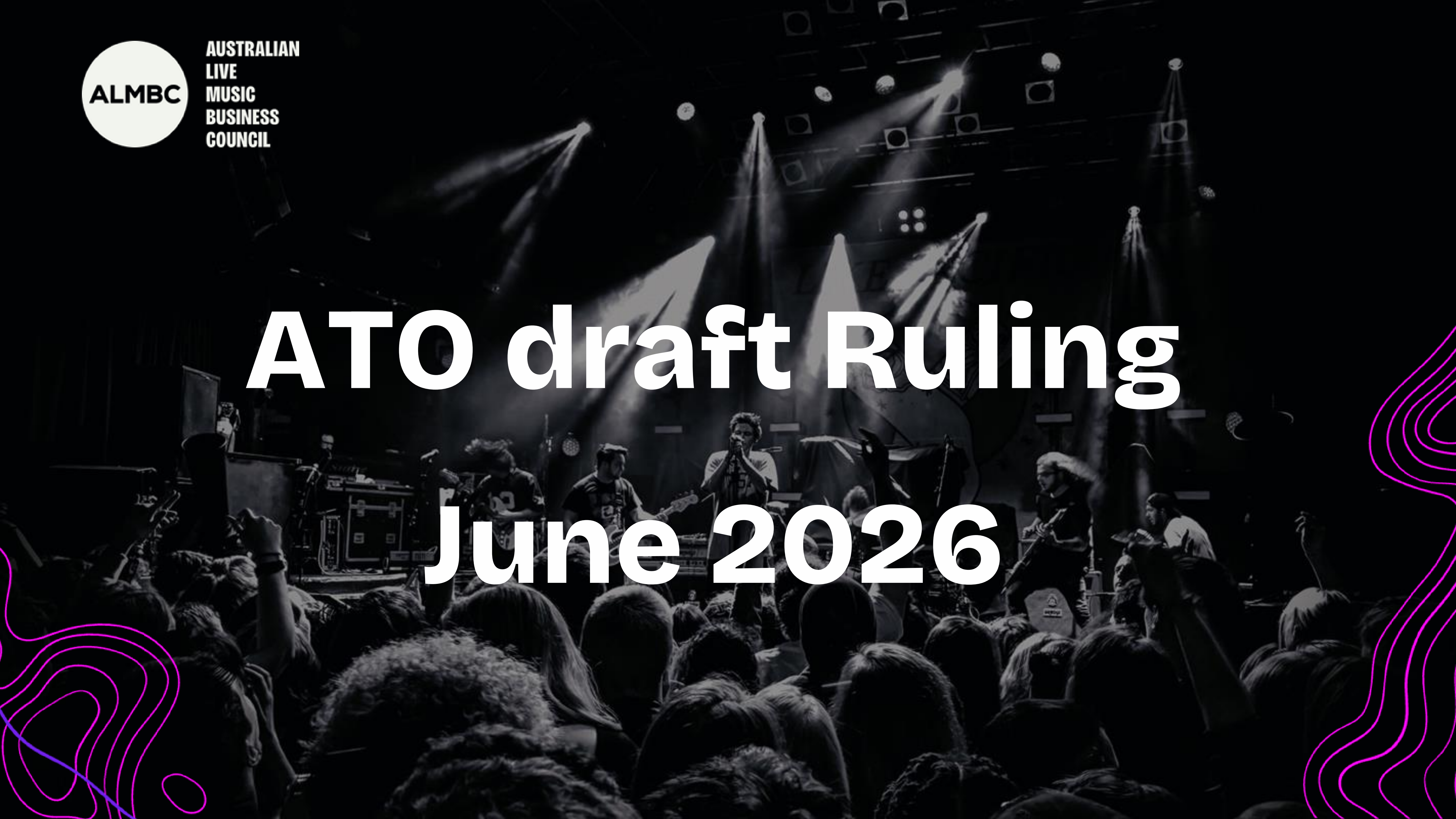
a) a person who is paid to **perform or present, or to participate in the performance or presentation of, any music, play, dance, entertainment,** sport, display or promotional activity or any similar activity involving the exercise of intellectual, artistic, musical, physical or other personal skills is an employee of the person liable to make the payment.

SECTION 12 OF THE ACT:

b) a person who is paid to provide services **in connection with an activity referred to in paragraph (a)** is an employee of the person liable to make the payment;

c) a person who is paid to perform services in, or **in connection with, the making of any film, tape or disc or of any television or radio broadcast** is an employee of the person liable to make the payment.

ALMBC
AUSTRALIAN
LIVE
MUSIC
BUSINESS
COUNCIL



ATO draft Ruling

June 2026

ATO Draft Ruling

Tripartite Working Arrangements – Who is the Employer for Super? ATO Summary (SGR 2026/D1)

When three parties are involved in a working arrangement (for example, a worker, a booking agent/labour hire company, and a venue or client), the ATO first determines who has the legal contract with the worker before deciding who is responsible for superannuation.

https://www.ato.gov.au/law/view/document?docid=DSG/SGR2026D1/NAT/ATO/00001

sorrento strategic accounting

ALMBC AUSTRALIAN LIVE MUSIC BUSINESS COUNCIL

ATO Draft Ruling Principals

- The contract comes first. The ATO first identifies who the worker has contracted with. A contract can be written, verbal, partly written, or implied by the parties' conduct.
- No contract = no employer. If there is no contract between the worker and the end-user, the end-user cannot be the employer. If there is no contract between the worker and the intermediary, the intermediary cannot be the employer.
- The employment relationship is then determined using the ordinary employee tests in Taxation Ruling TR 2023/4.

ATO Draft Ruling Principals

- Labels do not determine the outcome. Calling a business a labour hire company, employment agency or booking agent does not determine who the employer is.
- Legal control is more important than day-to-day supervision. The ATO focuses on who has the contractual right to control the worker, not simply who directs the worker's daily activities.
- An intermediary can still be the employer even if the worker performs services for the benefit of the end-user.

ATO Draft Ruling Principals

- An agent is not an employer. If the intermediary merely introduces the worker to the client and acts only as an agent, it is not the employer.
- Where the contract is with the worker's company, trust or partnership rather than the individual, neither the end-user nor the intermediary is the employer. The worker may instead be an employee of their own entity.

Key Takeaway

ATO does not determine who must pay super based on who pays the invoice or supervises the work. Instead it asks:

1. Who has the legal contract with the worker?
2. Does that contract create an employment relationship?
3. Is the worker contracted personally, or through a company, trust or partnership?

The legal contractual relationship is the starting point for determining who is responsible for superannuation obligations.

sorrento strategic accounting

ALMBC AUSTRALIAN LIVE MUSIC BUSINESS COUNCIL

Key Takeaway

ATO does not determine who must pay super based on who pays the invoice or supervises the work. Instead it asks:

1. Who has the legal contract with the worker?
2. Does that contract create an employment relationship?
3. Is the worker contracted personally, or through a company, trust or partnership?

The legal contractual relationship is the starting point for determining who is responsible for superannuation obligations.

Key Takeaways

The legal contractual relationship is the starting point for determining who is responsible for superannuation obligations.

Who Does This Apply To?

Music performances, Live entertainment, Theatre
Dance, Film and TV, Radio, Promotional appearances, Sporting events, Similar activities involving artistic, musical, intellectual or physical skills

sorrento strategic accounting

ALMBC AUSTRALIAN LIVE MUSIC BUSINESS COUNCIL

Who Does This Apply To?

Those connected such as:

Directors, Producers, Choreographers, Camera operators, Crew, Artistic support staff

Who Does This Apply To?

A musician to perform at an event, A singer for a venue, An actor in a commercial, A presenter or MC, A DJ, A dancer, A sporting participant, A camera operator or crew member working on a production, A choreographer, Production personnel connected with a recording or broadcast

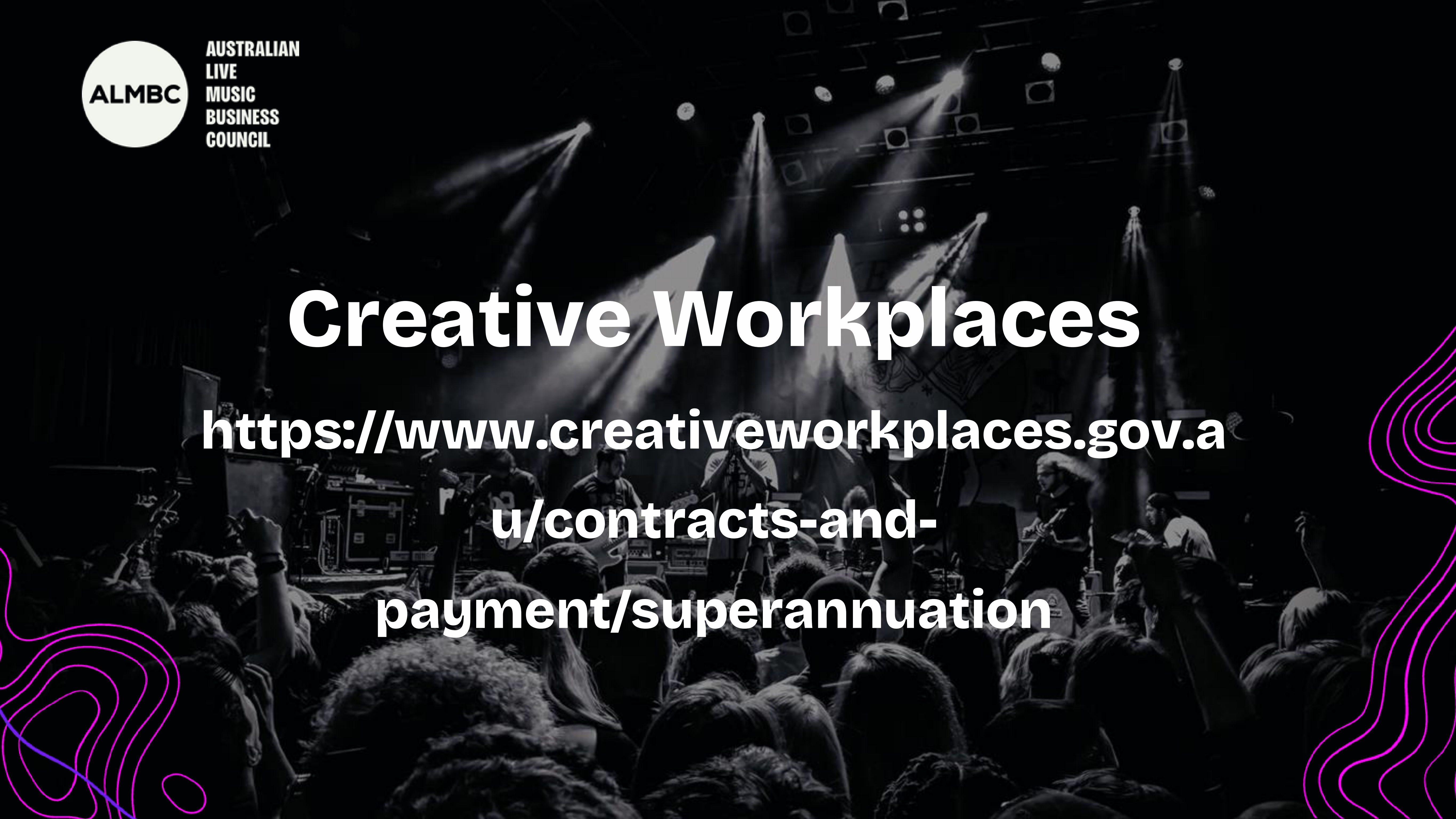
What happens if I dont?

Failure to pay compulsory super can result in:

- Super Guarantee Charge (SGC)
- Interest
- Administrative penalties
- Loss of tax deductions

sorrento strategic accounting

ALMBC AUSTRALIAN LIVE MUSIC BUSINESS COUNCIL


ALMBC
AUSTRALIAN
LIVE
MUSIC
BUSINESS
COUNCIL
Creative Workplaces
https://www.creativeworkplaces.gov.au/contracts-and-payment/superannuation

AUSTRALIAN LIVE MUSIC BUSINESS COUNCIL

From Here:

- Share Data with ALMBC & Tax Institute
- https://forms.gle/BFr3VAMipPkLnpKv6
- ALMBC meeting directly with the Tax Office
- ALMBC meeting with Tony Burke's Advisor
- ALMBC & Tax Institute submitting response to ATO

ALMBC
AUSTRALIAN
LIVE
MUSIC
BUSINESS
COUNCIL

Q&A

Q&A

AUSTRALIAN
LIVE
MUSIC
BUSINESS
COUNCIL

THANK YOU

FOR ATTENDING