AUSTRALIAN LIVE MUSIC BUSINESS COUNCIL

Payday Super

Practical Solutions and Communications in Partnership With The ATO

Thursday, 23 July 2026

Deputy Commissioner of Taxation (Superannuation) – Emma Rosenzweig

The Australian Live Music Business Council (ALMBC) strongly supports the policy objective of ensuring performers receive appropriate superannuation and supports the ATO's role in impacting positive change across the national industry in order to achieve this.

ALMBC Treasurer and Director of Sorrento Strategic Accounting, Kylie Thompson, is a highly experienced music industry accountant of 35 years, and has been driving this agenda nationally for many years, working with The Tax Institute, Creative Australia's Creative Workplaces, State music industry bodies and has been running workshops for many years, including five music industry workshops over the past months in the lead up to the introduction of Pay Day Superannuation.

Despite the introduction of **sections 12(8) and 12(11) of the Superannuation Guarantee (Administration) Act 1992 (SGAA)** being over 30 years ago, and the hard work of organisations like the ALMBC and individuals such as our Treasurer, the industry has not responded effectively and many musicians over recent years continue to not be paid Super appropriately.

The ALMBC has been working to encourage the industry to pay Super to musicians since our inception in 2021. The recent introduction of Pay Day Super has brought the issue to the national discussion, with many venues, festivals, booking agents, artist managers, band leaders and musicians finally beginning to understand the issues and their obligations at a deeper level.

However, there has also been some misinformation from individuals in the sector and some confusion, with the major impact faced by smaller players across all of these sectors - the smaller the organisation or business, the more they are indicating they are feeling the impact.

We are currently seeking submissions from our members until 31 July and to date we have been inundated with stories, information and ideas, with almost 60 submissions to date. Some of these already received include:

- Artists asking venues to add super to their payment having gigs cancelled
- Community / volunteer-led festivals engaging hundreds of artists cancelling claiming that pay-day super is to blame (which of course we question)
- Small community-led regular performances employing mostly retired musicians struggling to understand what their obligations are and how they will meet these financially
- Significant social media commentary - much of it ill-informed

The following three proposals seek practical clarification and solutions that would improve compliance while reducing unnecessary administration.

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1. Introduce A Practical Minimum Threshold for Section 12(8)

Proposed Solution

One practical solution from Kylie Thompson would be to introduce a **minimum payment threshold** for contractors who fall within the definition of **section 12(8) of the SGAA**. Kylie, after a direct consultation with a client, strongly believes that a minimum threshold exemption is the most viable solution to ease administrative stress and burden for small sole traders, community-based festivals and live music venues.

For example, any performance fee for **$5,000 or less**, the payer would not be required to pay Superannuation Guarantee under section 12(8). Once payments exceed the threshold, the normal Superannuation Guarantee rules would apply.

This approach would significantly reduce the compliance burden on thousands of small businesses, community organisations, venues and event organisers while allowing the ATO to focus its compliance efforts on higher-value engagements where the superannuation amounts are more material.

Why This Is Important

The majority of live music engagements involve relatively small payments.

A common arrangement is for a **band leader** to invoice the venue under their ABN and then distribute the performance fee to the remaining musicians after deducting shared expenses.

Introducing a minimum payment threshold that exempts smaller payments between musicians under section 12(8) would provide certainty and significantly reduce the compliance burden across the live music industry.

Such a threshold would benefit all participants in the tripartite arrangement, including:

- venues and event organisers;
- festivals;
- booking agents;
- artist managers;
- band leaders; and
- session musicians.

For many small performances, the administrative effort involved in determining superannuation obligations, calculating contributions, obtaining superannuation fund details and complying with Payday Super requirements is disproportionate to the amount being paid.

A minimum threshold would remove much of the stress, anxiety and administrative complexity for all parties while still preserving the policy objective of ensuring superannuation is paid on more substantial and ongoing engagements.

Importantly, it could also have positive economic outcomes for the live music sector. Smaller venues and community events often operate on tight budgets. Reducing the compliance burden associated with engaging musicians may encourage these venues to continue offering performance opportunities to emerging artists and smaller acts rather than reducing live music programming or only engaging larger, more established performers.

Why Musicians Generally Do Not Operate as Partnerships

While partnerships may appear to be a solution, they are often impractical for the live music industry for several reasons:

- Joint and several liability exposes each partner to the liabilities of the other partners, creating significant commercial risk, with personal assets such as property at risk through a partnership model
- The transient nature of bands, with members regularly joining or leaving between performances (even within the same festival for example), makes maintaining a partnership difficult.
- Session musicians commonly perform with multiple artists (even over the same festival for example) and are engaged only for specific performances, rather than being full time partners.
- Many bands perform infrequently, making the administrative cost of establishing and maintaining a partnership disproportionate to the income earned.
- Partnership documentation and ongoing administration can be complex and burdensome for creative professionals whose focus is performing rather than business compliance.
- Many musicians work part time or full time roles in which they already earn superannuation and see their musical performances as irregular activity.

Benefits

Introducing a minimum threshold would:

- substantially reduce compliance costs for small businesses and community organisations;
- reflect the commercial reality of the Australian live music industry;
- reduce inadvertent non-compliance by well-intentioned businesses;
- allow the ATO to focus compliance resources on higher-risk and higher-value engagements;
- reduce stress and anxiety for venues, booking agents, managers, band leaders and musicians; and
- continue to provide superannuation protection for performers receiving regular or substantial engagement income.

2. Enable Statement By A Supplier ("Hobby") Forms To Remove Obligation To Pay Superannuation

Thankyou for your clarity today that the ATO confirms that a **Statement by a Supplier** (commonly referred to throughout the music industry as a **"Hobby Form"**) does not remove any obligation for the payer to pay Superannuation Guarantee contributions under Section 12(8) of The Act 1992.

There has been uncertainty within the live music industry on this topic. Venues, festivals, booking agents, artist managers and band leaders have been unsure whether accepting a completed Statement by a Supplier from a performer is sufficient to conclude that no Superannuation Guarantee obligation arises under **section 12(8) of the SGAA**.

As we have not been able to get clarity, our Treasurer has been advising that Superannuation has, indeed, been payable. The ALMBC is keen to play a partnership role with the ATO, in ensuring the correct information is understood by the industry.

Proposal Suggested

A practical update could be for the ATO to publish practical guidelines distinguishing a **hobby musician** from a person carrying on a business and for hobby musicians to be exempt from receiving superannuation.

For example, a hobby musician may generally:

- perform only occasionally;
- receive small amounts that primarily offset the cost of equipment, travel or participation;
- not actively seek to make a commercial profit;
- have no formal business structure;
- not advertise or regularly market their services;
- not derive a significant proportion of their income from performing; and
- participate primarily for enjoyment, recreation or community involvement
- Already be employed full time (and receiving super) in a different sector.

Conversely, a musician is more likely to be carrying on a business where they:

- regularly perform for payment;
- actively market and promote their services;
- maintain an ABN and operate commercially;
- intend to make a profit;
- earn a substantial proportion of their income from music; and
- conduct their activities in a business-like manner.

Benefits

Removing hobby musicians from the Super Guarantee would remove uncertainty for all parties involved, including:

- venues and event organisers;
- community & volunteer-led organisations
- festivals;
- booking agents;
- artist managers;
- band leaders; and
- individual musicians.

It would reduce unnecessary administration, improve voluntary compliance and ensure that organisations are not discouraged from engaging emerging or community musicians because of uncertainty over Superannuation Guarantee obligations.

This would also remove the danger of leakage of personal data through poorly secured community organisations storage of dates of birth, home addresses, and other valuable personal information.

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3. Clarify The Application of Section 12(11) – Private and Domestic Engagements

The ATO's guidance on section 12(11) of the SGAA provides the helpful example of a bride and groom engaging musicians for their wedding, confirming that where the work is of a private or domestic nature **and** is less than 30 hours per week, there is no Superannuation Guarantee obligation.

This example has provided valuable certainty for couples engaging musicians directly.

A further point of confusion is the interaction between **section 12(11)** and **section 12(8)**. Unfortunately, one of the most common misconceptions in the live music industry is that performers who work less than 30 hours per week are automatically exempt from Superannuation Guarantee. This is incorrect.

The **30-hour rule** belongs to **section 12(11)**, which applies only to work that is wholly or principally **domestic or private in nature**, such as nannies, housekeepers, domestic cleaners, gardeners and carers working in private households. Where these workers perform **30 hours or less per week**, they are generally not treated as employees for Superannuation Guarantee purposes.

By contrast, **section 12(8)** applies to performers, musicians, actors, dancers, sportspersons, film makers and individuals providing services connected with these activities. **There is no 30-hour exemption under section 12(8).** A performer engaged for a single performance or only a few hours may still attract Superannuation Guarantee obligations if section 12(8) applies.

Unfortunately, some musicians have interpreted the 30-hour rule as applying across the board, when it clearly applies only to work that is **domestic or private in nature** under section 12(11), rather than to performers covered by section 12(8).

Clarity Requested

The live music industry would greatly benefit from further clarification where the musicians are **not engaged directly by the bride and groom**, but instead are supplied through an intermediary.

Specifically, can the ATO confirm that where:

- a booking agency;
- an entertainment agency;
- a band operating as a partnership;
- a company; or
- another commercial entity

contracts with the bride and groom to provide entertainment for a private wedding, the **private and domestic exemption under section 12(11) continues to apply**, such that neither the bride and groom nor the intermediary is required to pay Superannuation Guarantee contributions to the individual sole trader musicians engaged for that event.

Secondly, the ATO could update the following:

Exceptions

You will not have super guarantee obligations in relation to payments you make to a company, trust or partnership. This is because super guarantee obligations only arise in relation to payments you make to natural persons entering into arrangements in their individual capacity.

You will not have super guarantee obligations in relation to payments you make to an individual if:

- you engage them under an arrangement that is wholly or principally domestic or private in nature, and
- the individual is paid for less than 30 hours of work per week.

You will not have super guarantee obligations in relation to payments to individuals that are under 18 years old who work for you for less than 30 hours a week.

To include a direct reference to the 30 hours or work per week being directly linked to domestic or private in nature performance. Simply updating to bold or capatilise the word 'and' would make a difference. Or indeed, to spell out in this section this this relates only to domestic or private work.

A simple clarification that **the 30-hour rule belongs to section 12(11), not section 12(8),** would significantly reduce confusion across the live music industry and ensure businesses assess Superannuation Guarantee obligations for performers based on the correct legislative provision, rather than the number of hours worked.

Why These Clarifications Are Important

Many weddings are not booked directly with individual musicians. Instead, couples engage a booking agency or contract with an established band, which then arranges the individual performers.

Without clear guidance, uncertainty arises as to whether the involvement of an intermediary changes the application of the private and domestic exemption, potentially creating unintended Superannuation Guarantee obligations where none would have existed had the musicians been engaged directly.

This uncertainty affects:

- booking agencies;
- entertainment agencies;
- band leaders;
- companies supplying musicians;
- venues that facilitate bookings; and
- the musicians themselves.

Secondly, some musicians are currently interpreting the inclusion of a 30 hour per week limit incorrectly.

Suggested ATO Guidance

The ATO could provide a practical example confirming that where the **underlying engagement is wholly for the private and domestic benefit of the bride and groom**, the use of an intermediary to source or coordinate the performers does not, of itself, create a Superannuation Guarantee obligation that would not otherwise exist.

Providing this clarification would align the legislation with the commercial reality of how wedding entertainment is commonly arranged and would remove significant uncertainty for thousands of wedding performances conducted across Australia each year.

Providing updated text regarding the 30 hour per week limitation would also stop any confusion or mis-reading of these facts.

Conclusion

These proposals are not intended to reduce performers' entitlement to superannuation. Rather, they seek practical guidance that recognises the unique structure of the Australian live music industry and the realities of how musicians are engaged.

Providing certainty in these three areas would:

- improve voluntary compliance;
- reduce unnecessary administration;
- lower compliance costs for businesses and community organisations;
- encourage venues and festivals to continue engaging emerging artists;
- remove uncertainty for all participants in tripartite arrangements; and
- ensure the objectives of Payday Super are achieved in a practical, commercially realistic and administratively workable manner.

The ALMBC looks forward to partnering with the ATO on the best practical communications around the above.