

ALMBC Superannuation Forum, 29 September 2026

Questions from the chat, with answers

These are the questions forum participants asked in the chat. The answers are based on the ATO's published guidance as at 30 September 2026, mainly its page on [super for sportspeople, performers, film makers and related activities](#), last updated 16 September 2026.

This is general information only, not financial, tax or legal advice. Everyone's situation is different, so check with a registered tax agent before making decisions. We can make mistakes. Get specific financial advice before making any financial decisions.

Who pays and how super is calculated

1. Why is super coming out of my net payment? I understood it was meant to be paid on top.

- It comes down to what you and the payer agreed. The ATO says the two of you should [agree whether the fee includes super or whether super is paid on top](#).
- A fee can be "inclusive of super" if that's what was agreed. For example, if a venue agrees to pay \$280 including super, you get \$250 in your bank account and \$30 goes into your super fund.
- If you agreed a fee and super was never mentioned, it's reasonable to expect super on top. The payer shouldn't cut an agreed fee after the gig to cover super. The easiest fix is to quote "\$X plus super" in writing every time.

2. What's the ATO's stance on contracts that don't say whether super is included in the fee?

- The ATO doesn't set a default. Its guidance is that super is worked out on the part of the payment that's for your work, and you and the payer [negotiate whether it's included or paid on top](#).
- A contract doesn't have to be a formal document. Emails, texts and booking confirmations all show what was agreed, so hang on to them.
- If nothing was said about super, see the answer above.

3. Do band members have to show super separately from the fee when they invoice the band leader?

- No, it isn't required, but it does help. A line like "Performance fee \$250, plus super at 12% (\$30) to [your fund]" makes it clear what's owed and where it goes.
- Whether the band leader or the venue pays the members' super depends on how the gig was set up. See the band leader questions below.

4. If an invoice is 50% labour and 50% materials, is super exempt? Where is that written?

- There's no 50% rule. Super is only payable on the part of the payment that's for your performance. Real costs listed separately on the invoice aren't included. The ATO lists equipment hire, rehearsal studio hire, freight, travel and accommodation, and paying other people as examples (see "calculating super" on the [ATO's performers page](#)).
- So if a \$1,000 invoice is \$600 for the performance and \$400 for PA hire, super is worked out on the \$600 only.
- The costs have to be real. If you've always invoiced a gig as a straight performance fee, splitting part of it off as gear hire doesn't change what the payment is really for.

5. Is there a limit on how much of an invoice can be listed as labour?

- There's no written limit or set percentage. What matters is whether the split reflects what's really going on, and you need records such as receipts, hire agreements and travel bookings to back up the costs. The ALMBC has asked the ATO to clarify this.

6. Has anyone been pressured to reduce the labour component and make up the difference with expenses? What are the risks?

- Yes, several people at the forum said they had.
- If the "expenses" aren't real, the ATO can treat the whole amount as payment for the performance. The payer then owes the missed super plus the [super guarantee charge](#), which adds interest and an administration uplift of up to 60%, with penalties possible if it isn't paid.
- For the musician, the full invoice is still income at tax time. You can only claim deductions for costs you actually paid, so PA hire that never happened can't be claimed.
- Everyone in the band also ends up with less super, because it's worked out on a smaller figure.

7. Could super apply only once someone earns over a set amount across the tax year?

- Not under the current law. Since 1 July 2022 there's been [no minimum threshold](#), so super applies from the first dollar.
- An annual threshold would need a change to the law, and it's hard to make work because a venue has no way of knowing what a musician earns from everyone else across the year. That's why the ALMBC's proposal is a per-performance threshold instead (see the ALMBC proposals section).

Band leaders, agents and multi-party bookings

For every question in this section, the ATO asks the same thing: who is legally responsible for paying the performer? (See "intermediary arrangements" on the [ATO's performers page](#).)

- If someone books or pays you as an agent for someone else, the person they're acting for owes your super.
- If someone hires you for their own business, they owe your super, even if the money came from a venue in the first place.

The booking terms and how the gig actually runs decide which one applies, whatever label people use.

1. When Sole Trader A (an agent) books Sole Trader B (a band leader), who subcontracts and pays super to Sole Traders C, what are A's super obligations?

- If A is acting as an agent, booking on behalf of the venue or the band and passing the fee on, A has no super obligation. Whoever A is acting for does. In the ATO's magician example, the festival pays the agent, and the festival still owes super on the performer's fee less the agent's commission.
- If A contracts with the venue in A's own name and then hires B, A owes super on what A pays B. The ATO's example of an entertainment agency hiring a DJ for a wedding works this way.
- Either way, B owes super for C, because B hired C directly.
- It's worth writing down who books whom, and in what capacity, for every gig.

2. A venue (Pty Ltd) pays a booking agent (Pty Ltd), who pays the artist (a sole trader). Who has the super obligation?

- It's the same test. If the agent booked the artist on the venue's behalf and is just handling the money, the venue owes the super and should pay it straight to the artist's fund. If the agent contracted the artist itself to supply the show, the agent owes it.
- The ATO's draft ruling on intermediaries (question 5 below) deals with exactly this kind of three-way arrangement. The agent's booking terms should spell out which model applies.

3. Venues are pushing their super obligations onto band leaders, which means registering as an employer with a clearing house. Is that now the expectation?

- It depends on how the booking is set up, not on what the venue would prefer. The ATO gives two examples:
 - If the band leader books the gig as agent for the band, the venue pays each member's super, including the leader's, straight into their funds (the ATO's example with Neisha at the pub).
 - If the band leader is paid a fee and hires the other players themselves, the venue pays super on the whole fee to the leader's fund, and the leader pays super for each player they hire (the ATO's example with Sophie at The Old Oak Inn).
- In the second case the leader is an employer for super. They need a way to pay it, such as a clearing house, payroll software or a super fund's employer portal, and it has to reach each fund [within 7 business days of paying the players](#). Late or unpaid super attracts the super guarantee charge.
- On staying price competitive: quote "fee plus super" so it's clear. If a venue wants you to handle the members' super, it's fair to build that cost and the admin into your quote.

4. Does Option 3 let a band leader receive the money for their own super contribution as cash?

- No. Super has to be paid into the person's super fund. It can't be handed over as cash, and a band leader can't collect their own super and keep it.
- In the ATO's agent example, the venue pays each member's super, the band leader's included, directly to their funds. If a venue gives a band leader money to cover the other members' super, the leader has to pay it on to those members' funds.

5. Where does the current draft SG ruling on three-party arrangements fit in?

- It's [SGR 2026/D1 Superannuation guarantee: work arranged by intermediaries](#), released on 17 June 2026, with comments closing on 31 July 2026. Once finalised it will replace SGR 2005/2, the current ruling on these arrangements ([ATO advice under development](#)).
- It sets out how the ATO works out who the employer is when there's an end user (such as a venue), an intermediary (such as an agent, platform or band leader) and a worker. It's still a draft, so it shows the ATO's proposed view rather than settled law.

6. Can you expand on the commercial agreement approach for band leaders?

- The ATO accepts there's no super where the parties are in a commercial venture together and share the revenue, rather than one paying the other to perform. Its example is a comedian who gets what's left of the ticket sales after the venue takes its costs and its cut (see "revenue sharing" on the [ATO's performers page](#)).
- The things that make it work are that the performers share the risk, so a quiet night means less money, and the deal is written down before the gig.
- A flat fee or a guaranteed minimum looks much more like payment for a performance, and that does attract super.

7. For a band leader operating as a Pty Ltd, can clients be asked to absorb the super cost?

- Yes, if they agree. It's a commercial negotiation, and quoting "fee plus super" makes the cost visible.
- Payments from a venue to your company don't attract super. But if the company pays sole trader players for gigs, it owes their super, and if you pay yourself a wage from the company, it owes you super on that too. Build those costs into your quotes rather than taking them out of your own share.

8. Is there a pro forma agreement to send when booking someone?

- The ALMBC doesn't have one yet, and the panel flagged it as something worth developing. In the meantime, the Arts Law Centre of Australia sells [contract templates](#), including a [contractor agreement for performers](#), a [band partnership letter agreement](#) and a [band partnership deed](#). Arts Law subscribers get a discount.
- Whatever you use, write down who is booking whom, the fee, whether it includes super, which costs are separate, and any door split terms.

Door splits and revenue sharing

1. If a musician is paid a straight percentage of bar revenue (e.g. 15%), would the ATO treat that as revenue sharing and exempt the venue?

- Possibly, but the ATO hasn't said so directly. Its revenue sharing example is about ticket sales. A cut of the bar has a similar feature, because the musician's pay depends on how the night goes, but with no published example it's understandable that venues are cautious. The ALMBC will ask the ATO to confirm.
- Setting it up in writing as a shared commercial arrangement, rather than a fee, puts both sides in the best position.

2. A big band plays a monthly club gig for a percentage of the door. The club wants an invoice from the band leader, and the members invoice the band leader for their cut. Is that revenue sharing?

- The club-to-band part can be revenue sharing if it's a real door deal set out in writing.
- The band leader-to-members part is where it gets tricky. If the leader pays members a set amount, that looks like payment to perform, so the leader owes their super. If each member takes an agreed share of whatever the door makes, and that's written down, it's much closer to revenue sharing.
- Word the invoices as a share of door takings rather than a performance fee, and have a simple written agreement covering how the takings are split.

3. How is income earned through door splits treated?

- For super, a real door split is treated as a shared commercial venture rather than a payment for performing, so the venue doesn't owe super (see the ATO's revenue sharing example above).
- For income tax, your share of the door is still income and goes in your tax return like any other gig money.

4. A not-for-profit festival held in a club is funded by a door split and sponsorship. (a) If the festival pays a band leader an agreed sum, is the band leader responsible for the members' super? (b) If it pays an individual to run a workshop, is the festival responsible for their super?

- (a) An agreed sum is a payment to perform, even if the festival's own money comes from a door split. If the band leader hires the members themselves, the festival pays super on the full amount to the leader's fund and the leader pays the members' super. If the leader is

only acting as the band's agent, the festival pays each member's super directly. Not-for-profit and tax-exempt organisations [still have to pay super](#).

- (b) Generally, yes. Someone paid mainly for their own labour counts as an employee for super, so the festival pays super on the workshop fee unless the presenter invoices through a company, partnership or trust. It can be included in the fee or paid on top, as you agree.

Partnerships, companies and business structures

1. An accountant advised registering a band as a four-way partnership, with gigs paying \$1,200 to \$1,800 split four ways. Does that work?

- It can. The ATO confirms that [payments to a partnership](#) don't attract super, as long as it's a real partnership (the ATO's term is a general law partnership). Payers will generally expect to see the partnership's ABN.
- A real partnership means you're running the band as a business together and sharing the profits and losses. Each partner can be personally liable for all of the partnership's debts, not just their share ([business.gov.au](#)).
- The partnership lodges its own tax return each year and each partner reports their share. Nobody is paid super, so if you want super you'd need to make your own contributions.

2. What happens in a partnership when you bring in a sub player?

- A sub isn't a partner. If the partnership pays them to play, the partnership owes their super and needs a way to pay it. It's one of the reasons partnerships don't suit bands with a changing line-up.

3. What are the pros and cons of a partnership? Some venues are saying they'll only book partnerships from now on.

- On the plus side, venues don't have to pay super, which may help you get booked, and the band has a clear structure for sharing income and costs.
- The downsides:
 - each partner is personally liable for the partnership's debts
 - there's a separate partnership tax return, and usually an accountant's fee, every year
 - nobody gets super unless they contribute themselves
 - subs and line-up changes get complicated, and winding up a partnership takes paperwork.
- Some venues now prefer partnerships and companies because it takes super off their plate. That's their call, but you shouldn't feel pushed into a structure that doesn't suit you. Talk to a [registered tax agent](#) first.

4. What does it cost to set up a partnership?

- An ABN and tax file number for the partnership are free. If you trade under a name that isn't all of the partners' own names, you'll need to [register a business name with ASIC](#), which has a fee for one or three years.
- A written partnership agreement is strongly recommended. Arts Law's [band partnership deed](#) is one option, or a lawyer can draft one.
- The main ongoing cost is having an accountant prepare the [partnership tax return](#) each year.

5. How does working under a trust fit in?

- Payments to a trust don't attract super for the payer, the same as companies and partnerships ([ATO performers page](#)).
- Trusts are the most complex structure to set up and run. You need a trust deed and a trustee, often a company, and the trust lodges its own tax return every year

(business.gov.au). For most working musicians it's a lot of cost just to deal with super, so get advice from a registered tax agent before going down that path.

Community groups, not-for-profits and one-off gigs

1. How can a volunteer-run, not-for-profit community group with no ABN (because it doesn't qualify for one) pay super through a clearing house?

- The group still owes super if it pays performers. Being a not-for-profit or tax-exempt [doesn't remove the obligation](#).
- Organisations that aren't entitled to an ABN can apply to the ATO for a [withholding payer number \(WPN\)](#). The ATO says a WPN can be used in place of an ABN to [pay super through SuperStream](#), the system clearing houses and super funds use.
- Once you have a WPN, you can register as an employer with a super fund that offers a clearing house, or use a commercial clearing house. Check that they accept a WPN before you sign up.
- The ALMBC will raise this with the ATO, as it's a real barrier for small volunteer groups.

2. If a volunteer-run community ensemble engages a musician who invoices under \$500 with an ABN, does the ensemble need to pay super on top?

- Yes, unless you've agreed the fee includes super. There's been no minimum threshold since 1 July 2022, and neither the ensemble being volunteer-run nor the musician having an ABN changes that.
- The ensemble wouldn't owe super if the gig is a real revenue share, or if the musician is paid through a company, partnership or trust.

3. How is a solo performer meant to get super paid by a private client or a one-off event?

- For private functions, if a couple or family books you directly for something like a wedding or birthday, and you work for them for less than 30 hours that week, [no super is payable](#). That's the ATO's wedding harpist example. If they book you through an agency, the agency owes the super.
- For public events and businesses, the payer owes super even for a single gig.
- To make it easy for them, put your super fund's name, USI and your member number on your invoice, or send a [superannuation standard choice form](#). The payer also needs your tax file number to pay through SuperStream, and the choice form is the safer place to give it.

4. What are a small community festival's super obligations for overseas-based artists?

- Temporary residents working in Australia are generally covered, whatever their visa ([ATO](#)).
- The main exceptions are where the artist:
 - isn't an Australian resident and performs outside Australia, for example by streaming in from overseas
 - is covered by a bilateral super agreement between Australia and their home country and gives you a certificate of coverage, which you should keep ([ATO](#))
 - is paid through a company, partnership or trust.
- If the artist doesn't have an Australian super fund, you still have to pay into a fund for them. They can claim it back through the [Departing Australia Superannuation Payment](#) after they leave.

The ALMBC proposals

1. What is the de minimis rule?

- “De minimis” describes an amount too small to be worth the paperwork. The ALMBC's proposal is that no super would be payable on performance fees of \$5,000 or less per engagement, with the threshold indexed to CPI so it keeps pace with the cost of living.
- It would take the admin out of small gigs, where super can be \$30 or less per player. It needs a change to the law through Treasury and Parliament, because the ATO can't change the law itself.

2. Is the \$5K threshold per show or per tour?

- Per show.
- One participant felt this favours better-paid musicians. The thinking behind it is that musicians on higher fees can better absorb the 12%, and are more likely to be in a company paying themselves a wage with super.

3. What are the cons of treating musicians like tradies?

- These are the objections the ALMBC's joint request will need to answer:
 - Parliament would have to change the law that has treated performers as employees for super since 1992.
 - Some musicians would stop getting super, including full-time players who rely on it.
 - It runs against the direction of recent changes, such as removing the \$450 threshold and bringing in Payday Super, which were designed to widen super coverage.
- Pairing it with a threshold, so people working at a higher level still get super, is one way to address these.

4. What would be the top three or four ideas to fix this without people having to form partnerships or companies?

- These are the ideas raised at the forum. The ALMBC is working them into a draft joint request, subject to the board's view:
 - treat sole trader musicians with an ABN the same as other sole traders, who sort out their own super
 - exempt occasional and hobby performers who use a statement by a supplier form
 - a \$5,000 per-engagement de minimis threshold, indexed to CPI
 - clearer ATO guidance on costs, door deals and band leader arrangements, plus practical help such as a free clearing house for small payers.
- None of these would need anyone to set up a partnership or company. A further idea from the chat, about how the ATO reads subsection 12(3) of the SG Act, is listed at the end of this document.

Definitions and general

1. If musicians aren't treated as employees for super, should they still be treated as workers for WHS purposes?

- Yes. WHS law has its own, much wider definition. A “worker” includes employees, contractors, subcontractors, self-employed people and volunteers ([Safe Work Australia](#)). So a venue or festival owes WHS duties to musicians whether or not super is payable, and that was already the case before the super changes.
- Workers compensation is separate again, with its own rules in each state and territory. Carrying your own public liability insurance doesn't change a venue's WHS duties.

2. How do you tell the difference between a sole trader and a hobbyist?

- The ATO looks at things like whether you're trying to make a profit, whether the activity is regular and ongoing, and whether you run it in a businesslike way, such as keeping records, marketing yourself and having an ABN ([ATO: are you in business?](#)).
- Hobbyists don't need an ABN and can give a payer a [statement by a supplier](#) so no tax is withheld.
- For super it makes no difference. The ATO's guidance says hobbyists and retirees are covered, and it confirmed at the ALMBC's August meeting that super is payable even when a statement by a supplier is used.

3. What is LISTO?

- The [low income super tax offset](#). If your adjusted taxable income is \$37,000 or less, the government refunds the tax taken out of your concessional (before-tax) super contributions, up to \$500 a year. It works out at 15% of those contributions and is paid into your super fund.

4. What does the \$450 drop mean?

- Employers used to be able to skip super for anyone paid less than \$450 in a calendar month. That threshold [stopped applying from 1 July 2022](#), so super now applies to every dollar, including small gigs.

5. What is a clearing house and what does it do?

- A clearing house pays super into lots of different funds for you. You send it one payment with a list of who gets what, and it splits the money and sends each amount to the right fund in the format the funds need ([ATO](#)).
- The ATO's free Small Business Superannuation Clearing House [closed permanently on 1 July 2026](#). The options now are payroll software with super built in, commercial clearing houses, and super funds that offer a clearing house to employers who register with them. Some large industry funds offer this for free, so it's worth asking your own fund first.

6. Where is last Friday's update to the sole trader scenarios on the ATO website?

- The ATO's checklist is on its website as the [super checklist for sportspeople, performers, film makers and related activities](#). It sits under the main [performers page](#), which was last updated on 16 September 2026.
- The ALMBC found discrepancies between the checklist and an ATO handout and has asked the ATO to fix them, so treat it with some caution for now.

7. Some players are in the Defence Force, and apparently you can't pay super into Defence Super. What happens then?

- That's right in most cases. ADF Super only takes contributions from outside employers that have been approved through the Department of Finance ([CSC](#)), so a venue or band leader generally can't pay into it.
- Ask the player to nominate another fund using a [standard choice form](#). If they don't, request their stapled fund from the ATO. If that fund can't take the payment, ask the ATO for an alternative, and as a last resort use your own default fund ([ATO: which fund to pay into](#)).
- The exemption for Defence reservists only covers work done in the reserves, not gigs.

Tools and platforms

Questions about specific tools have not been included, as some of the answers were critical of particular tools and the ALMBC does not wish to share that information.

Other tips shared in the chat

- Rather than paying for Xero's super add-on, use Xero's pay run to download spreadsheets and upload them to a clearing house.
- The Tax Practitioners Board's [public register](#) lists registered tax and BAS agents, who have to keep up with tax law.
- The ALMBC survey is still open, and specific examples are what carry weight with government, so please [add yours to the survey](#).

Reporting super paid to contractors through STP

1. What is this?

- Single Touch Payroll (STP) is how employers report wages, tax withheld and super to the ATO each payday through their payroll software.

2. Does it need to be reported?

- No. The ATO says [it's not mandatory](#) to report payments to contractors paid mainly for their labour through STP. If you already report contractors through STP, from 1 July 2026 you also need to report their qualifying earnings and super ([ATO](#)).
- Either way, the super has to reach the fund within 7 business days of paying the invoice, or 20 business days the first time you pay into someone's fund ([ATO performers page](#)).

Chat contributions worth keeping in the ALMBC requests

- The ATO could apply subsection 12(3) of the SG Act to musicians in the same way it already applies 12(8), without any change to legislation.
- Retired musicians may need to open a new pension account every time they want to draw on small super payments.