



Subclass 457-Business (Long Stay) visa Information for workers

Pay, tax and superannuation, recovering earnings

How much money should I be paid?

Your sponsor must pay you an annual salary by way of regular payments (at least monthly). If a Minimum Salary Level (MSL) applies to you, your pay must be at least equal to the applicable MSL, or the relevant industrial instrument (eg. award, certified agreement, collective agreement etc.) for your position, whichever is higher. The MSL is based on a 38-hour week. You cannot be paid less than the applicable MSL, even if you work fewer than 38 hours a week. If you work more than 38 hours a week, you should continue to receive at least the relevant MSL pro rata rate for additional hours worked (or higher if the relevant industrial instrument specifies a higher rate).

On 1 July 2009, a new MSL Instrument (Gazette Notice) was issued. This new instrument applies, not only to new sponsored worker visa applicants, but to all existing sponsored workers. This means that the MSL level for existing sponsored workers already employed in Australia increases by 4.1 per cent. The following table sets out the impact of the change:

MSL Instrument Period of Effect	MSL Occupation Category	MSL prior to 1 July 2009	MSL from 1 July 2009
11/02/04 to 08/04/05	Non-ICT*	\$39 150	\$40 755
	Regionally-certified	Industrial Award	Industrial Award
	ICT	\$48 390	\$50 375
09/04/05 to 02/05/06	Non-ICT	\$40 590	\$42 255
	Regionally-certified	Industrial Award	Industrial Award
	ICT	\$52 700	\$54 860
03/05/06 to 30/06/06	Non-ICT	\$43 440	\$45 220
	Regionally-certified	Industrial Award	Industrial Award
	ICT	\$59 480	\$61 920
01/07/06 to date	Non-ICT	\$43 440	\$45 220
	Regionally-certified (non-ICT)	\$39 100	\$40 705
	Regionally-certified (ICT)	\$53 530	\$55 725
	ICT	\$59 480	\$61 920
	English language exemption (from 10/09/07 only)	\$77 850	\$81 040

* ICT = Information and Communication Technology

In any given week, a sponsored worker cannot be paid for less than 38 hours. For any hours in excess of 38 that are worked, the sponsored worker must be paid at least the equivalent hourly rate for every hour.

If you believe that you are not being paid correctly, phone the Department of Immigration and Citizenship (DIAC) on 131 881 or the Workplace Infoline on 1300 363 264.

Note: If the relevant industrial instrument requires a higher salary or overtime rate, the higher rate must be paid.

Can I recover money my employer owes me?

If you believe your sponsor owes you money because they are not meeting their undertakings, you should phone DIAC on 131 881. Actions DIAC takes in response to these allegations often result in monies owed being paid in full. In cases where your sponsor has not paid you in full, you can also take legal action under section 140S of the *Migration Act 1958* to recover debts due to you from a sponsorship undertaking, in a court of competent jurisdiction. It is recommended you seek professional legal advice if you pursue this option.

What money can be taken out of my salary?

Under Australian taxation law, your sponsor must withhold an amount from your salary as a tax payment. Your sponsor must send this amount to the Australian Taxation Office (ATO). If you have questions about the amount of money being withheld from your salary for tax reasons, phone the ATO on 132 861 or visit the website at www.ato.gov.au

Other deductions cannot be made from your salary unless they are understood by you and agreed between you and your sponsor. Your salary must remain above the applicable MSL, except for taxation deductions and amounts deducted because the employer provides you with certain salary-packaged deductions. Any salary-packaged amounts must be 100 per cent tax-deductible for you, or otherwise exempt or excluded from Fringe Benefits Tax (FBT), to be included in the amount that goes to making up the MSL. Other salary-packaged amounts cannot be included.

Deductions must be agreed in writing and must be considered fair and reasonable. Phone the ATO on 132 861 for more information on what is claimable or go to www.ato.gov.au/individuals and click on 'Work out your Tax'. If you think your sponsor is not meeting the applicable MSL, phone DIAC on 131 881. If you believe your sponsor is making deductions from your salary you have not agreed to (except for tax), contact Workplace Infoline on 1300 363 264.

What do I need to know about Australian tax and superannuation?

All employers and employees in Australia must comply with Australian tax law. It is important to have a Tax File Number (TFN) while you are in Australia. You will need to apply to the ATO for your TFN. Your TFN is private information and you should protect it. You only need to give it to your employer after you start work. You must complete and lodge an Australian income tax return after 30 June each year. Soon after 30 June each year, your sponsor must give you a statement called a payment summary that you should use to complete your tax return. The payment summary sets out the 'gross payments' made to you during the year and the 'total tax withheld'. You may hire a registered tax agent to prepare your tax return for you. A list of registered tax agents can be found on the Tax Agents Board website at www.tabd.gov.au or phone the ATO on 132 861 for more information about the tax you should pay.

Your sponsor must pay superannuation contributions on your behalf if you meet certain criteria such as:

- if you are aged 18 years or over but under 70, and
- if you are paid at least \$450 (before tax) in a calendar month, and
- if you are under 18, you are eligible for compulsory superannuation guarantee if you work 30 hours or more a week.

These amounts must be paid directly by your sponsor to your superannuation fund. You may have the right to choose which superannuation fund you would like your contributions paid into.

To find out more about whether your sponsor should be paying superannuation to a complying superannuation fund on your behalf, phone the ATO on 131 020 or visit their website at www.ato.gov.au and search for 'Individuals superannuation essentials'.

If you are working in Australia as a temporary resident you may be eligible to claim your superannuation money once you have permanently departed Australia if you visited on a temporary resident visa, your visa has expired or been cancelled and you are not an Australian resident, New Zealand resident or permanent resident.

Note that you may still be able to return to Australia on another visa even if you claim and receive your superannuation money. You can claim your superannuation by applying for a departing Australia superannuation payment (DASP). More information on these payments is available at: www.ato.gov.au/departAustralia

Do you have any questions?

For more information, go to the following question and answer sheets:

- [Sponsors, contracts, unions and workplace conditions](#)
- [Accommodation, family and health care](#)

Important contacts

If you have any complaints or concerns about how you are being treated by your employer while working in Australia, contact the following organisations.

Department of Immigration and Citizenship	131 881	www.immi.gov.au
Workplace Infoline, at the Workplace Ombudsman	1300 363 264	www.wo.gov.au
Human Rights and Equal Opportunity Commission	1300 656 419	www.hreoc.gov.au

If you have a complaint or compliment about DIAC services, contact the Global Feedback Unit on 133 177 or go to www.immi.gov.au/contacts/forms/services/index.htm

If you need help in another language, contact Translating and Interpreting Services on 131-450 or go to www.immi.gov.au/tis.