

15 April 2015

Senior Adviser
Contributions and Accumulation Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: supercompliance@treasury.gov.au

Dear Sir/Madam,

Re: Superannuation compliance: Simplifying when a standard choice form must be provided by an employer

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the \$600 billion not-for-profit superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training, consulting services and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.

In brief:

AIST supports measures to simplify superannuation administration for employers. Removing the obligation to provide a superannuation choice form to temporary residents is not opposed, but the objective will be more efficiently achieved through the Government's Single Touch Payroll initiative. Access of temporary residents to superannuation must be maintained, along with measures to avoid the unnecessary duplication of accounts.

AIST is responding to the Exposure Draft (ED) removing the requirement for employers to provide employees a standard choice form, if they are temporary residents or in the circumstances of a fund merger where member benefits are transferred to a successor fund.

Temporary residents

AIST agrees that this measure may simplify requirements for employers, and support measures that make the administration of superannuation easier for them. However, we also identify other issues that should be taken into account. These issues include the desirability of:

- Consistency between superannuation arrangements for all employees;
- Avoiding the unnecessary duplication of accounts; and
- Addressing simplification in a co-ordinated and comprehensive manner through Single Touch Payroll.

On balance, AIST does not oppose the measure. The objective of the measure in relation to temporary residents will be achieved in other ways, and at most this measure should be considered an interim one pending the implementation of Single Touch Payroll.

- **Consistency of superannuation arrangements**

AIST strongly supports consistency between superannuation arrangements for all employees. Temporary residents of Australia should be treated the same way as other employees. This is consistent with choice of fund regime where employees will be members of the default superannuation fund unless they make a decision otherwise. This is a position that AIST has long held and included in our representations to successive governments¹.

Regardless of whether or not there is a requirement on employers to give temporary residents a choice form, the employer (subject to the Superannuation Guarantee threshold) is required to contribute superannuation on behalf of their temporary resident employees, and these employees are still able to exercise choice.

This is confirmed in paragraph 1.18 of the draft Explanatory Memorandum (EM) which states that:

Contributions made by an employer for an employee that is a temporary resident and who has not chosen a fund are contributions made in compliance with the choice of fund requirements in Division 2 of the SGAA.

This confirms choice of fund is available if sought by a temporary resident. This statement is backed up by paragraph 1.20 which confirms that all other rights of new employees to choose their own fund remain untouched.

¹ http://aist.asn.au/media/2268/aist_2008.05_Temporary_residents_and_super_submission.pdf

While temporary resident may not retire in Australia, they nonetheless should have the same consumer protection in relation to their superannuation entitlement. If they do not know they have a superannuation entitlement, and the choice form is one element in providing this awareness, they are less likely to claim it when they leave Australia.

- **Multiple superannuation accounts**

This measure may also lead to an increase in the unnecessary creation of multiple superannuation accounts and an increase in unclaimed superannuation. Temporary residents often have peripatetic lifestyles and multiple jobs. Lack of awareness of superannuation will also lead to the creation of additional superannuation accounts.

AIST has long been a supporter of efficient measures to reduce the incidence of lost and unclaimed superannuation, and the proliferation of unnecessarily duplicated accounts².

The streamlining of new employee registration is a more efficient way of avoiding the creation of multiple superannuation accounts and reducing the burden on employers. Such a process is already underway as an initiative of the current government: Single Touch Payroll.

- **Single Touch Payroll**

The problem the ED seeks to solve in respect of temporary resident s – the burdensome nature of the requirement on employers – will be resolved by the introduction of Single Touch Payroll. AIST submits that it would be a better use of scarce parliamentary resources to reduce the burden on employers in this way rather than through another separate and ad hoc measure.

On 28 December 2014, the Minister for Small Business, Bruce Billson MP, and the Assistant Treasurer, Josh Frydenberg MP, announced³ that the government will cut red tape for employers by simplifying tax and superannuation reporting obligations through Single Touch Payroll.

Under Single Touch Payroll, employers will be required to electronically report payroll and super information to the ATO when employees are paid, using Standard Business Reporting-enabled software.

In addition, Single Touch Payroll will streamline tax file number declarations and Super Choice forms by providing a digital channel to simplify the process of bringing on new employees. It could also cut red tape by notifying super funds and government agencies, such as the Department of Human Services (DHS), when an employee ceases employment.

² <http://tinyurl.com/loq7mz>

³ <http://jaf.ministers.treasury.gov.au/media-release/001-2014/>

Single Touch Payroll will be available from July 2016, and the ATO is currently undertaking consultation with interested parties, including employers⁴. This process will give participants the opportunity to suggest ways in which its implementation can be as simple and streamlines as possible for employers.

- **Departing Australia super payment (DASP)**

Temporary residents who work in Australia, and have super contributions paid by their employer, are entitled to receive their super benefits once they leave Australia. This payment is called a departing Australia superannuation payment (DASP).

After departing Australia, a former temporary resident can claim their super at any time. These arrangements must be maintained, and AIST's position in this submission is in no way does not mean we support the removal of the superannuation safety net for temporary residents.

Transfers to successor funds

We support moves to reduce barriers to fund mergers, and note that this measure comes shortly after the passage of the *Tax and Superannuation Laws Amendment (2014 Measures No. 7) Bill 2014* which recently received royal assent.

The requirement to provide new choice of fund forms after the merging of funds to members of the successor fund is redundant and unnecessary red-tape, and contributes to member disengagement with superannuation. Therefore, its removal is strongly supported.

If you have any further questions regarding this submission, please contact David Haynes, Executive Manager, Policy & Research on 03 8677 3800 or at dhaynes@aist.asn.au .

Yours sincerely,



Tom Garcia
Chief Executive Officer

⁴ <https://www.ato.gov.au/General/Consultation/What-we-are-consulting-about/Papers-for-comment/Single-Touch-Payroll-discussion-paper/#>