

15 September 2015

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

Via Email

Email: sgcharge@treasury.gov.au

Dear sir/madam,

Re: Simplifying and reducing the harshness of the superannuation guarantee charge

In brief:

AIST supports existing measures to ensure members' contributions are paid in a timely manner. The proposed changes reduce the bases of the SG charge shortfall amount and the nominal interest payable, reducing disincentives to employers. AIST does not support this measure and calls for this to be abandoned.

AIST welcomes measures aimed at ensuring that employers are meeting their superannuation obligations. AIST also welcomes measures that better assist employers to meet their obligations to their employees, in particular, those that assist small business. We agree that small business often do not have the resources of larger businesses in meeting their tax and superannuation obligations, and should be given the opportunity to meet their obligations without the risk of overly punitive measures.

However, in this instance, AIST is unable to support this exposure draft as it does not go towards achieving either aim. This measure removes the disincentive to making superannuation guarantee (SG) payments on time which presently exists through the different payment bases. In addition, it changes the date from which the nominal interest on the charge is to be calculated, reducing the amount in the process.

By way of background, it is important to point out that the due date for SG contributions after the quarter in which they are incurred is the 28th of the month following the end of the quarter. At four whole weeks after the end of the quarter, one would expect that sufficient time has

elapsed for an employer to make a payment of superannuation contributions on behalf of their employees.

The present calculation base for the superannuation guarantee (SG) is based on ordinary time earnings (OTE). The use of salary and wages as the base for the calculation of the SG charge has acted as a disincentive to employers to ensure that contributions are made within the prescribed period at the end of the quarter. AIST has argued that the use of OTE as a base for SG calculation purposes is a concessional base that no longer reflects employees working patterns. The best known example of this is where employees are required to work overtime: Overtime is not considered by the ATO to fall within the definition of OTE even if regularly worked.

As a result of these changes, the method of calculation for the SG charge means that there is no difference between the SG shortfall amount and any outstanding amount of SG for an employee. In other words, no longer is there a disincentive to pay late for affected employees.

Example

Alice is an employee of Boxcar Ltd. Alice works as a widget assembler on Boxcar's assembly line. Normally, she gets paid about \$5,000 per month, however of this, \$1,000 is overtime.

Boxcar contribute Alice's superannuation into the Concrete Super fund at the normal rate of 9.5% of OTE. Over a quarter, this calculates as \$1,140 in contributions.

One quarter, Boxcar is unfortunately a day late in making a contribution. Under the old calculation method, Boxcar would be required to make a total SG shortfall payment (disregarding any offsets) of \$1,425, however under the proposed method, this would be the same as the unpaid SG amount.

In addition, the date of the interest amount will reduce as well. The new method commences the interest calculation at the 29th of the month following the end of the quarter, whereas the current method calculates interest from the start of the relevant quarter.

Example

In making the late payment into Alice's account at Concrete Super, Boxcar would be subject to the notional interest charge at the full rate of 10% per annum.

Under the old method (assuming a 90 day quarter in a 365 day year), interest on the late amount of \$1,140 in contributions for the quarter would be \$37.17. Under the proposed method, this amount would be \$0.31.

It can be seen that the changes reduce the SG charge to no serious disincentive.

We are concerned that this ED fails to represent any serious attempt at reform. The measure reduces the costs of non-compliance to a trifling amount, with the administrative cost of \$20 being the only remaining serious disincentive. From the perspective of an employee, the expectation that a late payment is accompanied by more serious compensation for time out of the market is also not met.

In addition, these changes also fail to address the aim of this measure to reduce the compliance workload for small business, as the reduction of the disincentives also would benefit large employers with no scale test for employers to benefit from.

AIST cannot support this measure for these reasons and calls for it to be abandoned.

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,

A handwritten signature in black ink, appearing to read 'Tom Garcia', is written over a light blue horizontal line.

Tom Garcia
Chief Executive Officer

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.