

17 September 2014

General Manager  
Deregulation Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [deregulation@treasury.gov.au](mailto:deregulation@treasury.gov.au)

Dear Sir/Madam,

**Re: Treasury Legislative Amendment - Deregulation**

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.

We write in respect of Schedule 1 of the Exposure Draft (ED).

The vast majority of working Australians are entitled to 9.5% of Ordinary Time Earnings as Superannuation Guarantee payments into a superannuation fund from employers. These amounts are clearly a substantial portion of people's remuneration. AIST supports measures which provide working Australians with information about all their remuneration entitlements, including when, how and where they are paid. AIST also supports measures that remove unnecessary red tape; however we do not believe that this is one of them. 'Red tape' by its very definition covers those processes which hinder or prevent action or decision-making. In the case of people receiving information about when, how and where 9.5% of their OTE is paid, AIST contends that such information assists Australians make decisions – and, at a bare minimum, provides awareness as to where their superannuation money is.

We note that in paragraph 1.10 of the Explanatory Material (EM), the reasoning provided for the removal of this provision is that:

*...most employers pay their superannuation, non-compliant employers may not provide accurate information and employees may not take regular notice of what is reported on their payslips.*

Whilst this statement is, in many cases, correct, we note that the same argument could be made with respect to regular payment of “wages”, if this word was substituted for “superannuation”. We believe that this argument opens the door to bad policy: The same arguments made in paragraph 1.9 about investment in new systems could be made if payslips themselves were just being introduced for the first time.

The subsequent sentence in paragraph 1.10 makes the additional point that 70% of affected employees do not make a complaint to the ATO with regards to unpaid superannuation until they have left their employer, hypothesising that the reason for this is an unwillingness of employees due to the perception of impacted job security and not the unavailability of superannuation contribution information on payslips.

We consider this to be assertion only and point to the one test as to the statement’s veracity: A thorough test of superannuation contribution information being provided on payslips to a suitably large portion of the Australian working population.

We also believe that the 70% figure quoted in paragraph 1.10 could be substantially lower if employees were aware of the status of all items of remuneration, not just the cash component. However, given that this layer of transparency also assists with enabling employees to assess their employers as going concerns, additional notification of ‘red-flag’ items such as unpaid superannuation may better assist employees to leave employers that may be in financial difficulty before unpaid amounts get too great. Consequently, a focus on how many affected employees complain before or after leaving employment may not be a helpful metric.

Secondly, we point to the 2010 report from the Inspector-General of Taxation<sup>1</sup>, who noted that employees most affected by unpaid superannuation tend to be low-income, casual or part-time workers. These employees are often less educated or from non-English speaking backgrounds and may be unaware of their rights as employees, or how their remuneration is structured.

We note in the Inspector-General’s report that actual non-compliance with the superannuation guarantee (SG) could actually be higher than what is reported (finding 2, paragraph 2.6), as the

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<sup>1</sup> Inspector-General of Taxation, (2010). *Review into the ATO’s administration of the Superannuation Guarantee Charge*. [pdf] Canberra: Attorney-General’s Department. Available at: <http://tinyurl.com/mpwoev6> [Accessed 17 Sep. 2014].

statistics maintained by the ATO only reflect Employee Notification (EN) complaints lodged by employees.

AIST maintains that this is, essentially, the tip of the iceberg insofar as complaints regarding unpaid superannuation are concerned: We are not aware of any legislated methods of enforcement with respect to other contributions made via an employer, including salary sacrificed contributions or non-concessional (member voluntary) contributions, other than through contract arrangements between employers and salary packaging companies. We are also not presently aware of any means whereby payment of these amounts can be monitored, other than on payslips. We note that the time it takes to process these at superannuation funds may be a few days after payments have been received, not allowing for time spent in transit through gateways such as payroll and clearing house entities. Feedback from member funds of AIST member funds is that the payroll sections of employers receive queries from employees regarding whether salary sacrifice payments have been made, given that the salary sacrifice payment is not showing up in the employee's superannuation account. Payslip reporting would assist both employers and employees in this respect.

Finally, we note that there is presently an audit in process on compliance with the SG requirements at the Australian National Audit Office. In our discussions with the ANAO and in our submission to them, we make the point that SG compliance, protecting the superannuation savings of working Australians, will be better protected with the implementation of payslip reporting.

We strongly recommend that Schedule 1 to the ED not proceed until the findings of this audit are finalised and made public.

AIST offers no comments with regards to the remaining parts of this exposure draft.

If you have any further questions regarding this submission, please contact Richard Webb, Policy & Regulatory Analyst on 03 8677 3835 or at [rwebb@aist.asn.au](mailto:rwebb@aist.asn.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tom Garcia', written in a cursive style.

Tom Garcia  
**Chief Executive Officer**