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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,

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

Thank you for the opportunity to comment on the Exposure Draft of the proposed amendments.

Our concerns relate to Part 1 of the proposed amendment – i.e. those aspects related to holders of temporary visas. We have therefore restricted our comments to Part 1.

Concerns for temporary visa holders

Where a Choice of Fund form is not provided, there is an increased likelihood the employer will contribute to a fund which is not the same as the employee's existing superannuation arrangements (if any). This will result in an increase in multiple accounts, multiple fees etc and a higher likelihood of lost accounts. The removal of the requirement to provide a Choice of Fund form will hence work against the Government's intention to reduce the number of multiple accounts and reduce lost accounts.

However, of particular concern, the proposed amendment will enable an employer to deny a request for a Choice of Fund form by a holder of a temporary visa. This is a very disturbing outcome which will make it more difficult for temporary visa holders to consolidate their accounts.

Further, an employer can change default fund without advising the employee. A temporary visa holder could therefore have more than one fund with the same employer without being properly informed. (Fair Work Regulations generally require the name of the fund to be shown on payslips however this will not necessarily highlight that there has been a change of fund. It is also likely to be missed by most temporary visa holders.)

Concerns for employers

1. Red tape reduction or increase?

It is questionable whether this proposed change to the requirements removes or adds red tape for employers. Employers wishing to avail themselves of the option would need to put in place procedures to identify holders of temporary visas for this purpose and then implement different induction processes for temporary visa holders (no Choice of Fund form given) compared to other employees (Choice of fund form must be provided). However provided employers have the flexibility to continue providing Choice of Fund forms to temporary visa holders, those employers who wish to do so can effectively ignore the exemption and continue to provide Choice of Fund forms to all. We expect many employers will continue to provide Choice of Fund forms.

2. Increase in risk to employer

Where an employer has not given a Choice of Fund form to a holder of a temporary visa, we are concerned with the situation where a temporary visa holder has gained permanent residency or citizenship status. The employer will then need to ensure this employee receives a Choice of Fund form in future as required by Sections 32N(3) (employee request), 32N(4) (cessation of available fund), 32N(5) (employer changes fund) and 32N(5A) (employer cannot contribute to fund). However there may be cases where the employer is not aware of the employee's new status and does not provide a Choice of Fund form when required to do so. There is a risk the employer will incur a penalty because it was not aware of the change in the employee's status.

Recommendations

Part 1 of the exposure draft should not proceed.

However if the Government is committed to providing "relief" from the requirements for giving a Choice of Fund form to temporary visa holders, we recommend the following:

1. Any relief should be limited to the provision of a Choice of Fund form to new employees under Section 32N(2). Providing a Choice of Fund form should still be required in other circumstances as set out in Section 32.

2. Any communication by the ATO should highlight that employers are still able to provide a Choice of Fund form to temporary visa holders if they wish.



Please contact me (or Paul Shallue on 03 9623 5061) if you have any queries on this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read "D. Knox", written in a cursive style.

Dr David Knox
Senior Partner



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Appendix A

Who is Mercer?

Mercer is a global consulting leader in talent, health, retirement and investments. Mercer helps clients around the world advance the health, wealth and performance of their most vital asset – their people.

Mercer also provides customised administration, technology and total benefits outsourcing solutions to a large number of employer clients and superannuation funds (including industry funds, master trusts and employer sponsored superannuation funds). We have \$55 billion in funds under administration locally and provide services to over 1.3 million super members and 15,000 private clients. Our own master trust, the Mercer Super Trust, has over 240 participating employers, 226,000 members and more than \$19 billion in assets under management.

Our trustee company, Mercer Superannuation Australia Limited is the trustee of three superannuation funds.