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### **Simplifying and Reducing the harshness of the superannuation guarantee charge**

The IPA welcomes the opportunity to provide a submission on the exposure draft Simplification of Superannuation Guarantee Compliance for Employers (**ED**) and the accompanying explanatory material (**EM**).

The IPA is a professional organisation for accountants who are recognised for their practical, hands-on skills and a broad understanding of the total business environment. Representing more than 35,000 members and students in Australia and in more than 81 countries, the IPA represents members and students working in industry, commerce, government, academia and private practice. More than 75 per cent of our members work in or with small business and SMEs and are recognised as the trusted advisers to these sectors.

The IPA is generally supportive of measures that reduce complexity and the compliance burden in the administration of taxation law especially, when it relates to small business. The proposed changes are intended to reduce the harshness of

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the superannuation guarantee (SG) charge for employers. The IPA has advocated that the SG charge imposes punitive costs on employers who pay their SG late or in part and is disproportionate to the mischief. The harshness of the penalty regime can lead to further non-compliance delays in employers making superannuation contributions. The current onerous penalty regime has done little to address the problem of unpaid superannuation which some experts are claiming is on the increase.

These punitive penalties have a significant impact on small businesses who are late in meeting their SG obligations due to cash flow problems. Small businesses do not have access to the same resources of larger entities when cash is tight. Due to limited access to funds, one option they have is to delay payment of employee obligations. While we do not encourage this practice, for many small businesses it is a reality.

Whilst a penalty regime is required to ensure employers meet their statutory employee obligations, the harshness of the current regime is considered excessive especially for the small end of town.

The Government has already reduced small business superannuation compliance by expanding the small business superannuation clearing house and we support these proposed changes as positive further improvements to reduce small business superannuation compliance costs.

Whilst the proposed changes lessen the penalty regime and compliance burden, we still are of the opinion that the non-deductibility of late SG contributions when paid, is a harsh unreasonable outcome. The interest charge, administrative fee and potential penalties are sufficient incentives for an employer to meet their SG obligations rather than pay the SG charge. It is important to strike the right balance so an equal playing field is maintained between employers who pay super on time and those who do not.

Specific comments on the simplification of superannuation guarantee compliance for employers, as follows:

1. Alignment of calculation of superannuation contributions and SG charge using ordinary time's earnings (OTE) for both removes confusion and complexity. Currently the SG charge is worked out based on the employee's salary and wages which is a broader base than OTE. Moving to a single base for calculations will simplify the process for employers to comply with their super obligations. Removing the need to pay a potentially higher SG charge than the original amount of the contribution required to be made is a welcome improvement particularly for small businesses.
2. We support the alignment to the point in time when contributions should have been made, as opposed to the current law which requires interest to accrue from the beginning of the quarter.
3. Even with these proposed changes being implemented, the consequences of non-payment, underpayment or late payment is considered harsh and excessive. We refer to the non-deductibility of super contributions following a late payment. The Board of Tax report to the Government Review of Tax Impediments Facing Small Business also concluded that the non-deductibility of the SG charge is unreasonable.
4. Late payment of SG contributions requires the employer to lodge an SG statement. The proposed changes still require the automatic lodgement of an SG charge statement with the ATO when the entity becomes liable for the SG charge. As recommended by the Board of Tax into its Review of Tax Impediments Facing Small Business, the requirement to complete and lodge an SG charge statement should be removed. The employer should instead be required to pay the late superannuation contribution and the associated interest directly to the superannuation fund and only forward details to the ATO if requested.

In summary, we support the proposed changes which will in part reduce compliance and harshness of the SG charge penalty regime.

The IPA welcomes the opportunity to discuss further any of the matters we have put forward in our submission. Please address all further enquires to myself ([tony.greco@publicaccountants.org.au](mailto:tony.greco@publicaccountants.org.au) or 0419 369 038).

Yours sincerely,

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