

Submission to “Securing Australians’ superannuation” consultation process:

Reason for my name not to be published – I am a private individual.

[REDACTED]

[REDACTED]

[REDACTED]

Submission to “Securing Australians’ superannuation” consultation process:

To: Retirement, Advice and Investment Division
Treasury, Langton Cres. Parkes ACT 2600
Email: paydaysuper@treasury.gov.au
Phone: Wendy Hau 02 6263 3966

Dear Sir / Madam,

I wish to make this submission because I have seen how unfair the current system can be for both small business employers and their marginalised workers. Over the last twenty years I have worked in the ATO in GST and Superannuation Compliance and as a private sector accountant.

In my experience cost and cashflow are the principal barriers to meeting these small business obligations. But, in my view, the opportunity to leave this obligation unquantified makes SGC an abstract liability rather than an enforceable debt.

In contrast for marginalised workers the SGC is a tradeoff that they make for the moment to hold on to their job and the associated income flow. Often, they wait for the termination of the employer relationship to get the lump sum ‘due to them’.

I believe that lack of transparency and appropriate costs for misbehavior are the main weakness in the current system.

One thing that must be done is the contract of employment must give both the employer and employee equal knowledge about superannuation remuneration. This information should be available to both contracting parties in real time.

I would suggest that any 90 days old liability for SGC should be reported to the employee and also the ATO. This time period is an industry standard for unpaid debts.

The employee, or the worker representative, should then have the enforceable right to have the actual debt paid with interest and have legal plus court costs fully compensated. This should go on the public record. Then any potential future employees will have a clear understanding of the respect for worker rights, and actual wage theft, that the business has displayed in the past.

The current system based only on an unreported tax obligation is failing the workforce. There must be inbuilt costs for wage theft in any fair system.

I believe there should be built into any new system a reporting obligation at least at the end of each financial year. Just as a Payment Summary must be given to an employee and the ATO, a Superannuation Summary should also be given to these interested parties. It may also be appropriate for the IR regulator to also be an interested party if a complaint is received by them. This new reporting obligation for each and every employee should include the amount of:

- Actual super amount paid to each fund, and super fund account details,
- Unpaid super and reported amount as SGC, and charge period, &
- Amount unpaid plus unreported to the ATO.

These amounts should also be reported in standard Financial Statements (including number of employees for each category and time periods unpaid) for businesses particularly when seeking a loan. I would like this to become a financial stress indicator that is publicly available. There should be appropriate record keeping obligations imposed in law.

I would like employees and their Union to have a legal right to records to allow the courts to process superannuation complaints efficiently. This would also give the ATO an easy low-cost compliance model to check reporting and record keeping.

For small businesses the cost of compliance is significant. This may explain why they fail too often to meet the SGC obligations. Their payroll software may identify super liability due, but it does not monitor the SGC that has become a debt or allow one touch online lodgment of SGC Forms for each employee. The super liability in accounting software is often not adjusted but can be allowed to continue to accrue. It is often inaccurate.

From my experience, when an average small business is audited for SGC by the ATO they will need to reconstruct their records. There is no simple report to print and the super liability vs SGC debt/liability is not distinguished. A Superannuation Liability is not now converted to a SG Charge tax liability on the due day for unpaid super automatically. Choice and Late Payment SGC must be calculated manually by an experienced accountant at a high cost.

In my view payroll software is currently hiding the problem. Other liabilities are not confused with undeclared debts on accounting software. Late paid super might easily be claimed as a tax-deductible amount too.

Payroll software that does not automate superannuation law obligations creates errors or increases compliance costs for small business. This must be reviewed. At least any small business owner should be able to see the cost paid for choice of wage theft. The regulator should be able to receive a fit for purpose report from accurately kept records, and employees should be given truthful information about how they are being remunerated.

I wish to thank Treasury for making available the opportunity to make my suggestions and comments.

Yours faithfully
Name withheld
2/11/2023