

From: David Dwyer <david.dwyer@dwyerandco.com.au>
Sent: Thursday, November 2, 2023 1:45 PM
To: Payday Super <paydaysuper@TREASURY.GOV.AU>
Subject: Consultation Submission

To Whom it May Concern

Re : Employers Pay Superannuation Same Day as Salary Paid

<https://www.ato.gov.au/Tax-professionals/Newsroom/Superannuation/Consultations-are-underway-on-the-design-of-payday-super/>

This will be a significant compliance burden on small business. Note larger business can cope as they have the people and systems in place.

It is unlikely to counter the problem whereby failed business go into liquidation with unpaid employee superannuation. The fact is that the ATO and other regulatory bodies struggle to be effective with enforcing late payers on a quarterly basis. In practical terms trying to monitor real time late payers will be enormously complicated and burdensome. It is arguable it will make it significantly harder for authorities to enforce.

The better solution is a monthly requirement, in line with most employers' obligation to pay PAYG Withholding (employee tax) by the 21st of the month. For a number of years I have been paying my employees superannuation monthly (notwithstanding the obligation is quarterly) as it is easier to manage that way.

The simple solution is to move to a monthly payment requirement rather than quarterly and require employers to provide proof of payment to employees when it is paid. This will enable a self-regulation process as employees have a vested interest in seeing their superannuation is paid.

At present employers are not obligated to provide a payment slip (similar to regular wages payslips) when they pay employee superannuation. At present an employee needs to access their super fund to see the payment being received or wait for an annual statement. There is no reason why employee reporting process cannot be automated such that when payment is made, employees are notified the same way they are when they get paid their regular remuneration.

I would couple a reporting process with a simple late payment fine regime, with the usual first offence warning and a fine based on the amount unpaid. These fines then provided a database for authorities to follow up, including issuing Director Penalty Notices which means Directors of companies can become personally liable for unpaid employee's superannuation.

I appreciate that it is Government policy to require superannuation to be paid the same day as employees are paid. My point is that this is flawed, is impractical for small business, is likely to make enforcement harder and not deliver the outcome of better compliance.

A self-regulatory process as explained above would be far more effective. Coupled with immediate penalties for late payment and a system to enable regulatory authorities to follow up employers who are getting behind. From my experience the current system is not working effectively.

For the record I have over 35 years' experience working with small to medium businesses, including businesses under financial stress and when recently employed by another firm that went into

liquidation, I was left without some \$1400 of my superannuation not being paid. So I have experience from all stakeholder positions.

I can be contacted for further information or input if required.

Kind regards

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