



Australian Government

The Treasury

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File: TBA

Mr John Hawkins
Committee Secretary
Senate Standing Committee on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Mr Hawkins

INQUIRY INTO TAX LAWS AMENDMENT (2009 MEASURES NO. 1) BILL 2009

Thank you for your email of 27 February 2009 seeking Treasury's response to two submissions received by the Senate Economics Committee as part of its inquiry into the Tax Laws Amendment (2009 Measures No. 1) Bill 2009 (TLAB1).

The submissions received were from the Industry Funds Forum (IFF) and Mercer, a private consulting firm. IFF did not make a submission as part of public consultation on the draft TLAB1 but Mercer provided a submission which was attached to their submission to the Committee.

The IFF submission appears to confuse reforms in TLAB1 with reforms in another Bill currently before the Parliament, being the Social Security and Veterans' Entitlement (Commonwealth Seniors Health Card) Bill 2009. The submission includes a case example involving an Age Pension recipient however reportable superannuation contributions, which are to be added to income tests for income support recipients below Age Pension age from 1 July 2009, are already assessed for individuals above Age Pension age.

The Mercer submission raises concerns with reforms in Schedule 3 of TLAB1 and includes comments on reforms concerning temporary residents' superannuation that were legislated last year. Mercer's concerns with Schedule 3 were considered as part of the public consultation process and, in response to submissions received, the reportable employer superannuation contributions (RESC) definition was revised to minimise compliance costs for employers.

In particular, clauses that would have required employers to report RESC amounts depending on the date of commencement of particular employees were removed. The RESC definition and explanatory materials also confirm that excess superannuation contributions made by employers for administrative reasons will not be assessed. A number of submissions had expressed concern that the former RESC definition would capture excess contributions calculated on the basis of an employee's total salary and wages rather than the employee's ordinary time earnings.

The test for whether a superannuation contribution is a RESC under the definition in TLAB1 depends on whether an individual had capacity to influence the amount of contribution being made. Where an employee has elected for a particular amount of their salary to be contributed to superannuation as part of a salary sacrifice arrangement in addition to the amount that would have been contributed under superannuation guarantee law, this excess amount is a RESC

Under existing law, employers would be expected to know what amounts they are contributing on behalf of their employee pursuant to superannuation guarantee requirements and what the total amount of superannuation contributions they are making for individual employees. The Treasury was also advised in submissions as part of the public consultation process that employers should know contributions being made on behalf of an individual as a result of a salary sacrifice arrangement.

To assist employers and individuals understand the reforms in Schedule 3 of TLAB1, the Australian Taxation Office ('Tax Office') and Centrelink will be providing information to employers and individuals through mail-outs and the agencies' websites. The Tax Office is proposing to include FAQs, guidebooks and fact sheets on its website and will issue all employers with a letter explaining the reforms together with a revised payment summary in advance of the amendments taking effect, assuming passage of the legislation.

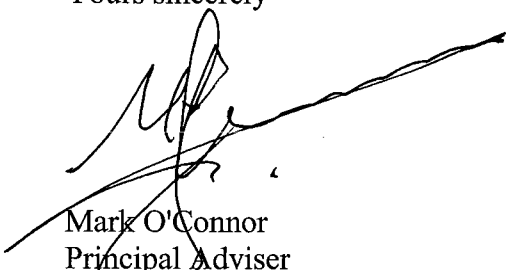
The Tax Office will also contract for guidance materials explaining the reforms to be user tested with a cross-section of actual taxpayers and employers. Employers that participate in this user testing will be asked to complete a draft payment summary and the Tax Office has started user-testing of draft guidance materials with the following of its committees:

Software developers Consultative group	Charities consultative committee
Personal Tax Advisory Group	Micro-Business partnership
Superannuation consultative Committee	ATO tax practitioner forum
Small Business Advisory Group and consultative committee	ATO book keepers Advisory forum

It is expected that details of how the RESC definition applies in particular situations, including for defined benefit funds, would be explored in these sessions with potential revision of guidance materials to explain the application of the RESC definition in certain circumstances. Treasury has provided the examples from the Mercer submission to the Tax Office. While TLAB1 is under consideration by Parliament, Treasury is responding to industry and individual queries concerning the application of the RESC definition.

The reforms in Schedule 3 will save the budget an estimated \$545.2 million over the next four years with further savings beyond. The reforms were announced by the Government in the 2008-09 Budget at the same time that the Australia's Future Tax System (AFTS) review was announced. The AFTS Secretariat was consulted in the development of these reforms

Yours sincerely



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