

Superannuation Guarantee non-payment Submission

Submission to the Senate Economics References Committee Inquiry into Superannuation Guarantee non-payment

Dear Secretary,

My Background

I am a former employee of SIMKARA Pty LTD, T/A International Stage Lines and National Bus Lines WA Pty Ltd.

International Stage Lines Pty Ltd A.C.N. 100 900 043 was placed into liquidation pursuant of an order from the Supreme Court of Western Australia on the 28th August 2003 and Jennifer E. Low of Sheridans Chartered Accountants was appointed the Official Liquidator.

National Bus Lines WA Pty Ltd. A.C.N. 104 487 498 was placed into liquidation pursuant of an order from the Supreme Court of Western Australia and Mr D Hunt of Sims Partners was appointed as Joint and Several Voluntary Liquidator.

Both the above-mentioned companies failed to pay the following employee eligible compulsory Superannuation Guarantee: -

SIMKARA Pty LTD
T/A International Stage Lines

Employee Name: Gary Edward Garbett

<u>Date</u>	<u>Date</u>	<u>P.A. Earning</u>	<u>9% Super Guarantee</u>	<u>Total S.G.</u>
28-02-2001	30-06-2001			
01-07-2001	30-06-2002			
01-07-2002	30-06-2003			
Total S.G. Sum				<u>\$ 5,408.64</u>

National Bus Lines WA Pty Ltd

Employee Name: Gary Edward Garbett

<u>Date</u>	<u>Date</u>	<u>P.A. Earning</u>	<u>9% Super Guarantee</u>	<u>Total S.G.</u>
11/06/2003	30/06/2003			
01/07/2003	30/06/2004			
Total S.G. Sum				<u>\$ 2,679.75</u>

Grand Total \$ 8,088.39

Superannuation Guarantee non-payment Submission (Cont)

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Summary

ASIC banned the company directors David Wayne Wright, Michael Burns Finlan, Charles Marks, who were directors of both companies, from managing a company for a period of five years in 2007. Unfortunately this type of penalty is of little comfort to the financially disadvantaged individual employees and suppliers.

In my endeavors to recoup the loss of the eligible employer compulsory Superannuation Guarantee entitlements, I have incurred the wrath of the Australian Taxation Office and have been financially penalised an additional \$6,644.54 personal Superannuation Excess Contribution Tax.

I have found the following Australian Taxation Office determination and rejection of my justification disappointing with no regard to the situation.

Reference: -

Australian Taxation Office correspondence dated 19 March 2012 (Page 3 of 8)

"Quote"

We acknowledge that your previous employers failed to pay the compulsory SG contributions from 28 February 2001 till 30 June 2004, however this does not establish 'special circumstances' in regard to your ECT contributions for the 2008-09 and 2009-10 financial years.

"Unquote"

Decisions of this nature made by the Australian Taxation Office are disturbing and send the wrong message to all law-abiding citizens of Australia.

In affect I have been penalised twice, once for the non-payment of the eligible compulsory Superannuation Guarantee, and secondly for an additional \$6,644.54 personal Superannuation Excess Contribution Tax.

Issue:

Unfortunately it is currently too easy for company directors and managers to place a company into either receivership or liquidation without any regard of the adverse financial consequences.

The current legislation should be amended and made retrospective to at least 30th June 2000, to enable disadvantaged employees, who have not been paid the eligible compulsory Superannuation Guarantee contributions, to be: -

- a) Reimbursed of previously paid Excess Contribution Taxation levied by the Australia Taxation Office
- b) Able to make additional personal Superannuation Contributions, without fear of any penalty.

Gary Garbett
Retiree