



AUSTRALIAN INSTITUTE of  
SUPERANNUATION TRUSTEES

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Senate Economics Legislation Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

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**In brief:**

AIST welcomes the changes which will remove loopholes which presently allow employers to reduce the Superannuation Guarantee (SG) entitlements of employees who use salary sacrifice arrangements. AIST suggests that the effectiveness of this measure could be enhanced by using gross remuneration as the basis of calculation of the SG.

**RE: Treasury Laws Amendment (2019 Tax Integrity and Other Measures No. 1) Bill 2019**

The Australian Institute of Superannuation Trustees (AIST) welcomes the opportunity to make a submission regarding the *Treasury Laws Amendment (2019 Tax Integrity and Other Measures No. 1) Bill 2019* (**'the Bill'**). We have limited our response to Schedule 7 – Salary sacrifice integrity of the Bill.

AIST welcomes the measures outlined in this Bill that seek to remove the loopholes applying to employees who contribute to superannuation via salary sacrificing arrangements. Where offered, salary sacrificing represents an efficient and effective way for employees to boost their superannuation balances in order to have a more comfortable retirement.

The changes in the Bill will remove the two primary loopholes which can see employers misuse salary sacrificed amounts to superannuation in order to meet or reduce their Superannuation Guarantee (SG) obligations. These loopholes can result in an employee believing they are boosting their retirement income by topping up their superannuation contributions but are inadvertently reducing their SG entitlements.

AIST supports the measures in this Bill and wish to see them implemented without delay.

Our recommended enhancement to the Bill is in relation to the way in which other salary sacrifice arrangements are treated.

**Other salary sacrifice arrangements**

In addition to being able to salary sacrifice contributions to super, some individuals also salary sacrifice to pay for other items such as computers, cars and childcare.

We note that the calculation for SG entitlements will now take place at a recalculated base, set as the pre-salary sacrifice base which is comprised of their ordinary time earnings (OTE) and any amounts sacrificed into superannuation that would have been OTE, but for the salary sacrifice arrangement. Whilst this improves the salary base for SG calculation purposes, we note that it does not consider other amounts that may have been removed from the salary amount, such as reportable fringe benefits.

As highlighted in the example below, this will result in reduced superannuation contributions for employees who decide to salary sacrifice for items such as a laptop.

Case study of proposed Bill			
	Scenario 1: no salary sacrifice	Scenario 2: salary sacrifice to superannuation	Scenario 3: salary sacrifice to purchase a laptop
Employee salary	\$65,000	\$65,000	\$65,000
Agreed salary sacrifice amount	\$0	\$2,500	\$2,500
Superannuation Guarantee	\$6,175	\$6,175	\$5,938
<b>Total package</b>	<b>\$71,175</b>	<b>\$71,175</b>	<b>\$70,938</b>

In addition to this issue, we point out the considerable uncertainty that exists at employers around what is considered to fall within Ordinary Time Earnings (OTE). OTE has been the subject of numerous attempts at clarification by the ATO, most recently in the form of Superannuation Guarantee Ruling SGR 2009/2 which clarified that no form of overtime, even if required to be regularly worked by an employee, formed part of OTE.

AIST believes that a more elegant solution to these problems would be to make the SG payable on gross remuneration. This would be much easier to understand for both employers and employees and ensures that employees' mandated retirement savings is calculated the way that it is intended.

For further information regarding our submission, please contact [REDACTED], Policy and Regulatory Analyst on [REDACTED] or at [REDACTED]

Yours sincerely,

[REDACTED]

Eva Scheerlinck  
Chief Executive Officer

*The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.*

*As the principal advocate and peak representative body for the \$1.4 trillion profit-to-members superannuation sector, AIST plays a key role in policy development and is a leading provider of research.*

*AIST provides professional training and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.*