24 January 2017

The Hon Kelly O'Dwyer MP
Minister for Revenue & Financial Services
Suite 1, 1343 Malvern Road
Malvern
Victoria 3144

c.c. Chairman, Senate Economics Committee
Inquiry into Unpaid Superannuation Contributions.

Dear Minister

re: Superannuants Short Changed

Hasn't it ever occurred to the Treasury mandarins that the $3.6bn mentioned in the attached article is a loss to the Government, not the account holders.

The future superannuants have indemnity in the form of the Age Pension - a dollar shortfall in their superannuation fund account balance is compensated by an extra dollar in their pensions.

When employer contributions to an employee's super fund is treated as optional by many companies, the Government is subsidising those companies by taking over their obligations.

The way forward is to treat employer contributions as a tax payable to the Australian Tax Office as part of the usual tax return, along with all the penalties for non-compliance.

The ATO duly passes the individual payments on to the designated super accounts, and uses its considerable powers to ensure a prompt response from employers who try to rort the system.

Yours faithfully

Malcolm Shepherd

Two million Aussies shortchanged by $3.6bn

THE AUSTRALIAN,
MONDAY, DECEMBER 5, 2016
theaustralian.com.au

Two million Aussies shortchanged by $3.6bn on super

SID MAHER
NSW EDITOR

More than two million workers have been underpaid compulsory superannuation contributions, costing them about $3.6 billion in a year and sparking calls for an urgent federal government crackdown on unscrupulous employers.

Research by Phil Gallagher, the former head of retirement income modelling for the federal Treasury, finds underpayment of compulsory superannuation contributions is affecting nearly one third of workers. This risks undermining the federal budget through lower tax revenues and higher pension payments.

The research, for Industry Super Australia, finds that in 2013-14 sham contractors and dodgy employers underpaid workers $2.8bn. A separate report by consultancy Tria Investment Partners for Cbus, the building industry super fund, finds another $800 million in compulsory superannuation payments have gone missing through the cash economy.

The reports, to be released today, will spark calls for an urgent federal government investigation into the issue and for the Australian Taxation Office to be beefed up to recover unpaid compulsory superannuation contributions.

The research has been released as the Senate economics committee will next year mount an inquiry into unpaid superannuation contributions.

The research argues that if the issue continues to grow at the current rate of 4.7 per cent a year, more than $17.7bn in compulsory superannuation contributions will be lost in the decade to 2024.

More than $1bn in contributions could be going missing because unscrupulous employers are using a loophole in the current system which allows them to count voluntary contributions made by their workers towards the 9.5 per cent superannuation guarantee. However, the research excluded this $1bn from its estimate of $2.8bn in underpayments for wage and salary earners.

Under current federal government rules 9.5 per cent of an employee's wage is paid into superannuation as part of a national system aimed at reducing reliance on the Aged Pension and boosting retirement incomes.

Industry Super Australia chief executive David Whiteley described the findings as "disturbing" giving the calculations were based on a conservative estimate that used a superannuation guarantee of 8.5 per cent rather than the 9.25 per cent which applied in 2013-14. The research suggested that workers were short-changed an average of $1489, or almost four months of superannuation contributions.

"The implications are wider than the individual," Mr Whiteley said. "Today's retirement income policies are made on the assumption that, into the future, we'll all have super. As pension access tightens and home ownership declines, those missing out on compulsory super stand little chance of a decent standard of living in retirement."

The research found younger employees, low-income earners and workers in the construction, hospitality and cleaning industries were most likely to miss out on superannuation.

"On average, affected workers missed out on $1489 or almost four months of superannuation contributions," the report found.

The report found that small and medium-sized businesses were least likely to pay the compulsory superannuation guarantee levy.

One area contributing to the non-compliance problem was the fact that employers were required to pay superannuation contributions only once every four months, meaning that the superannuation amount on an employee's payslip was only a guide to any contribution made to their super fund.

The report argues that the delay makes the ATO's task of tracking non-compliance more difficult and calls for a rollout of "single touch payroll" systems to increase the availability of real-time data on superannuation guarantee compliance.

Recovery of unpaid superannuation is also hampered by the fact that an employee who finds they have not been paid their superannuation must complain to the ATO rather than directly to their employer.

The report questions the effectiveness of the ATO's record in collecting unpaid superannuation, citing an Auditor-General's finding that the tax office collects about half of the non-payment it identifies.

In 2014-15, the ATO raised $474m in unpaid superannuation based on employee complaints.

Cbus chairman Steve Bracks, the former premier of Victoria, says: "We have stories of workers who've put faith in the system only to discover months later that their super, including extra voluntary contributions, has not been paid into their accounts and is lost completely when companies move into liquidation.

"It is not unusual to hear from members who have lodged a complaint with the ATO still waiting for answers, let alone their money, years afterwards. One has told us he was advised recovery of unpaid super may take up to 10 to 20 years.

"Employers who do the right thing by their employees are competing on an uneven playing field against those who don't."

The report calls for super contributions to be paid monthly to align payments shown on payslips with actual deposits to an employee's fund.

It also calls for the loophole allowing voluntary contributions to be counted towards the 9.5 per cent compulsory superannuation amount to be closed.

It calls for the Fair Entitlements Guarantee scheme, the federal government's safety net for unpaid worker entitlements in the event of a company collapse, to be extended to cover superannuation in the event of employer insolvency.

The finds were based on modelling of the ATO's 2 per cent sample of personal tax and matched member contribution statement records for 2013-14.

SUPER LOSERS, STATE BY STATE

	Gap in employer payments	Number of people with underpaid employer contributions	Average loss per person $	Percentage underpaid
NSW	$848,909,660	669,850	1267	26.9%
Victoria	$567,194,841	510,650	1111	25.9%
Queensland	$669,293,160	451,850	1481	28.1%
SA	$150,501,569	136,150	1105	24.7%
WA	$420,051,688	272,150	1543	28.5%
Tasmania	$41,272,767	38,350	1076	23.6%
NT	$55,601,267	31,900	1743	34.9%
ACT	$55,574,450	30,250	1837	23.1%
Unknown/OS	$6,696,888	9000	744	27%

SG: Superannuation guarantee OS: Overseas *Source: Industry Super Australia*