

SUBMISSION

Submission to the Senate
Economics Legislation
Committee — Treasury
Laws Amendment
(Recovering Unpaid
Superannuation) Bill 2019

2 October 2019

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Mr Mark Fitt
Committee Secretary
Senate Standing Committee on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: economics.sen@aph.gov.au

2 October 2019

Dear Mr Fitt,

Treasury Laws Amendment (Recovering Unpaid Superannuation) Bill 2019

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the Senate Economics Legislation Committee Inquiry on the Treasury Laws Amendment (Recovering Unpaid Superannuation) Bill 2019.

About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its \$2.9 trillion in retirement savings. Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing almost 90 per cent of the 16 million Australians with superannuation.

If you have any queries or comments in relation to the content of our submission, please contact Maggie Kaczmarek, Senior Policy Officer on (02) 8079 0849 or by email mkaczmarek@superannuation.asn.au, or myself on (02) 8079 0808 or by email gmccrea@superannuation.asn.au.

Yours sincerely



Glen McCrea

Deputy CEO and Chief Policy Officer

General Comments

Superannuation Guarantee (SG) compliance is a matter of significant concern to ASFA. The importance of superannuation for the retirement savings of employees is critical and unpaid super has a big impact on many individuals, often the most disadvantaged Australians.

Superannuation is an employee entitlement and delay in contributions or non-payment altogether can have a significant impact on the retirement living standard of the employees concerned. ASFA considers that employers should comply with their SG obligations, including paying contributions on time.

Our advocacy has focussed on improving several elements of the regulatory framework to achieve higher rates of SG compliance. We supported recent increases to funding for compliance activity by the ATO and active enforcement of employee entitlements by the Fair Work Ombudsman, including super.

We have called on Government to amend the SG legislation to cover the self-employed including, in particular, dependent contractors. ASFA has also recommended strengthening the 'sham contracting' protections in the *Fair Work Act 2009* to prevent instances where employers mis-classify workers as independent contractors, where their status should be one of an employee.

We have also proposed that unpaid employee entitlements should be included for the purposes of the Fair Entitlements Guarantee, to deal with cases where a company goes into liquidation and there are no assets available to pay the entitlements of workers.

While all employers should comply with their SG obligations, we support measures that address non-compliance and ensure that individuals do receive their entitlements.

Superannuation Guarantee Amnesty

On balance, ASFA is supportive of the one-off amnesty contained in the legislation as a means of encouraging businesses to pay outstanding employee superannuation entitlements.

This should help to boost superannuation balances for those impacted through encouraging employers to make overdue SG payments before the amnesty window closes, or risk facing more severe penalties.

We note that since the announcement of the amnesty, there has been an increase in businesses paying outstanding employee superannuation contributions and are hopeful that legislating the amnesty will encourage more employers to come forward.

ASFA's consideration of the amnesty should be viewed alongside our support for the broader suite of measures recently implemented by Government in *Treasury Laws Amendment (2018 Measures No. 4) Act 2019*, to significantly strengthen the ATO's powers to address future non-compliance.

Where non-compliant employers do not come forward under the amnesty, they are subject to a range of increased powers now at the ATO's disposal. ASFA considers that in combination, these measures provide the best opportunity to boost superannuation balances for employees impacted by historical non-compliance. We also note that the additional data the ATO is now receiving from superannuation funds on member account transactions, including SG contributions, is another important element that will improve compliance and enforcement moving forward.