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Mr. Michael D'Ascenzo
The Commissioner of Taxation
Australian Taxation Office
GPO Box 9990
Canberra ACT 2600

URGENT ATTENTION: Proposal to change the reporting of superannuation Contributions

Dear Commissioner,

The purpose of this letter is to urge the Australian Taxation Office (ATO) to adopt a forward looking position when introducing changes to the reporting of superannuation contributions information necessary to support new government initiatives. Specifically we are urging that the ATO adopt an industry supported suggestion related to the reporting and transference of information about superannuation benefits and contributions within *Rollover Benefit Statements* (RBS) and *Member Contribution Statements* (MCS).

About the Association of Superannuation Funds of Australia (ASFA)

ASFA is a non-profit, non-politically aligned national organisation whose mission is to advance effective retirement outcomes for members of superannuation funds through research and advocacy. We focus on the issues that affect the entire superannuation industry. Our membership, which includes corporate, public sector, industry and retail superannuation funds as well service providers some of whom deal with self managed superannuation funds (SMSFs), has over 90% of the approximately 12 million Australians with superannuation as members. ASFA members manage or advise on the bulk of the $1.3 trillion in superannuation assets as at September 2011. ASFA is the only organisation that represents all types of superannuation funds and associated service providers.

1. The current situation

When a superannuation benefit is rolled over from one superannuation entity to another, the paying entity is required to complete an RBS and send the RBS to the receiving fund), The RBS includes information about the tax and preservation components of the benefit being rolled over. It also includes details of contributions received by Fund A in the current financial year that have been ***notionally*** attributed as forming part of the rolled over benefit.

The main reason for issuing the RBS is so that the receiving fund is able to record the tax and preservation components of any rollover received. This information is then used to determine the ongoing preservation and taxation requirements associated with amounts that may be paid out of the receiving fund in the future. We have no issues with this requirement.

Our concern is with regard to the contributions that are ***notionally*** attributed to the rollover as including these amounts on the RBS has an impact on the amounts reported to the ATO for the individual within the MCS by both the paying fund and the receiving fund. The process operates as follows:

- **Paying fund MCS reporting** - The amount of contributions reported in the MCS as being received in respect of the individual for the financial year **will not include** the notionally attributed contribution amounts shown on the RBS.

  Where a partial rollover occurs, this means that the amount reported for a member by the paying fund will be the full amount of contributions received by the fund in the year **less** the amount notionally attributed to the rollover. The amount of contributions notionally attributed to a partial rollover is calculated by multiplying total contributions received that year (prior to the rollover) by the rollover amount expressed as a proportion of the total benefits of the member.

  Where a full rollover occurs the amount of contributions to be reported by the paying fund is nil. Currently, there is no requirement to include a member record in a MCS report if the member has nil amounts to report.

- **Receiving fund MCS reporting** - The amount of contributions reported in the MCS as being received in respect of the individual for the financial year **will include** the contribution amounts shown on the RBS. In effect, the receiving fund has to add the contributions notionally attributable to the rollover to all other contributions the receiving fund receives for the member even though the fund was not the actual recipient of those contributions.

The inclusion of the contribution amounts on a RBS creates a number of complexities and processing inefficiencies and that is the main purpose of this letter.

2. Historical reason for interaction of contribution information on MCS and RBS

MCS reporting was introduced in 1997 as part of the ATO's administration processes for the Superannuation Contributions Surcharge (surcharge), which was announced in the 1996 Federal Budget.

The design of the surcharge legislation required the ATO to assess the surcharge tax on the Fund that held the contributions that gave rise to the surcharge at the time of the assessment. In the situation that no fund held the contributions at the time of assessment, the ATO could direct the assessment to an individual (for example in the situation where an individual had been paid benefits).

To ensure that the assessment could be directed to the appropriate fund and to create some possible administration efficiencies for the ATO, when a benefit was rolled over, information about the contributions that were notionally included within the rollover was included in the RBS. Whether this achieved the administration efficiencies at the ATO's end is debatable. It added a large amount of complexity to the MCS reporting specifications as different treatments existed depending on whether an amount was rolled over before or after the end of a financial year, whether amounts had been fully rolled over or partially rolled over, whether benefits had been taken in cash or rolled over, etc. etc.

ASFA contends that with the superannuation contributions surcharge not applying to contributions made after 1 July 2005, the legislative basis by which surcharge assessments can only be made to the fund holding the contributions becomes a non-issue going forward with respect to which fund reports contributions on the MCS.

With a fundamental review being undertaken of the content of MCS report, ASFA and the superannuation industry consider that now is an appropriate time to also undertake a review of the need to have contribution information passed between superannuation entities on the RBS. The industry believes it is more appropriate and efficient for the fund that initially receives the contributions to report those contributions on an MCS report.

3. The case for change

Various elements of the Government's Stronger Super reform announcement and specifically those relating to SuperStream will require the ATO to collect significantly greater amounts of information from superannuation entities. The ATO is currently consulting with the superannuation industry on these changed requirements.

It is apparent that changes will be required to the MCS report if the ATO is to collect the necessary data. For example, the ATO will require information on all accounts held in a fund, rather than just those which have contribution amounts greater than nil during the year (which is the current situation). They will also require more information about each of those accounts.

Since the superannuation contribution surcharge was abolished in 2005, the superannuation industry has been strongly in support of having the contribution information currently being provided on the RBS removed, with the appropriate accompanying change being made to MCS reporting. The change would mean that the MCS report would include information about all contributions actually received by a fund during the year regardless of whether the member's full benefits remained in the fund or had been rolled over elsewhere. Appropriate information could be provided in the MCS as to the status of the member and if any amounts had been paid out of the scheme (as is the case now for members that have payments made after the end of the financial year but before the MCS file is actually run by the Fund).

Such a change would provide the following benefits:

- Improved accuracy of contributions reporting
- Reduction in the complexity of the RBS processing resulting in administration efficiencies for superannuation entities
- Simplification of ATO audit processes
- Little or no extra burden on the ATO
- Simplification of the SuperStream process.

Improved accuracy of contributions reporting

It is an understood fact that the further away from the primary source that information is provided the less likely it is that the information will be correct. The current MCS reporting is overly complicated very much due to this one issue. It requires complex coding to ensure different treatment for a benefit rolled over before or after 30 June in a financial year, cashed or rolled over in a year, part rollovers and full rollovers in a year. Accurate reporting of contributions data is vital if the ATO is to maintain the integrity of a number of processes undertaken by the ATO such as contribution limits, co-contributions and the new low income contribution. By having all contribution reporting done by the fund that actually received the contributions ASFA believes that the overall accuracy of contributions reporting will be increased and the risk of misreporting will be reduced.

Further, where an error may occur in amounts reported and a rollover is involved this may need to be resolved by the member and the ATO dealing with both the fund that reported the contribution and the fund that received the contribution. Should the ASFA proposal be adopted, only the entity that initially reported the information to the ATO and the ATO would need to be involved in data rectification. Currently, the data rectification could hit several entities as errors in the RBS information provided to a receiving entity results in rectification effort by the receiving entity as well by way of having to update their systems and previous MCS reporting, as a result of errors made by another entity.

Reduction in the complexity of the RBS process

By removing the current year contributions information from the RBS, the number of Rollover Payment Details data items on the statement would be reduced from twenty one (21) to seven (7). This would reduce the processing costs related to the sending fund producing and transferring the information and the receiving fund recording the information. Although, in the case of a full rollover, this information would still need to be extracted for reporting to the ATO by the sending fund, the cost of doing this as part of a whole of fund end of year process is significantly lower than as a standalone exercise during the production of an RBS. In the case of a partial rollover a cost is totally eliminated.

Additionally, where the rollover was used to fund a pension adoption of the ASFA recommendation would remove the requirement for the receiving entity to lodge an MCS report solely for the purpose of reporting **notional** current year contributions reported on the RBS.

Simplification of ATO audit processes

When conducting an accuracy and completeness audit of a fund's ATO reporting, ATO auditors would not have to consider the issue of the capturing and reporting of contributions information from an RBS or the accuracy of the contributions information recorded and reported by the receiving fund. MCS audits would be easier as it would be a simple matter of determining the amount received by the fund for a member without any consideration being given to amounts that may have been included on the RBS. Further, the amount included in the MCS could be more readily compared to the tax return and account information of the entity as the amounts on the MCS should align somewhat with the contribution amounts within the fund accounts and the tax return. (This is not currently the case due to the impact of RBS amounts on the MCS information). This simplification of the audit task should result in a more efficient use and better targeting of ATO resources. There may also be flow on benefits in monitoring employer compliance with SG obligations.

Little to no extra burden on the ATO

A past argument against this change is that it would result in a large increase in the size of the MCS report and thus ATO costs, because many more members would be reported. However as the ATO is currently moving to requiring funds to report on all members held during a financial year (for various new legislative reasons including the inter fund auto-consolidation of accounts process) this argument is no longer valid. ASFA and the industry do not consider that this change would add a significant additional cost to the ATO beyond those already anticipated by the ATO to arise from the implementation of SuperStream.

Simplification of the SuperStream Rollover process

The same arguments regarding reduced complexity of the RBS also apply to the SuperStream rollover process. With the implementation of electronic rollovers through SuperStream due to commence from 1 July 2013, this would be an ideal time to change to this new method and thus simplify the Rollover Message Implementation Guide (rollover MIG).

4. Timing of the change

The above proposal has been on the table now for several years and, while the ATO has advised that they see merit in the proposal, they have advised the industry that they have not been in a position to commit resources to the task.

ASFA considers that now is the time.

Given the major system changes being undertaken, there is no better time incorporate this change and to simplify the compliance task for funds and the ATO by having a simple basic rule that the recipient of superannuation contributions has the reporting obligation. Such a rule would create an unambiguous position on the reporting obligation and requirement.

Importantly, ASFA considers that such a change could be achieved through the Commissioner using administrative powers to amend the MCS reporting requirement. That is, no legislative change would be required.

Equally importantly, both the industry and the ATO are undertaking a series of significant and costly IT changes to implement the SuperStream components of Stronger Super. Given that the change we are proposing is, we understand, considered by the ATO to have considerable merit, ASFA strongly recommends that rather than attempt to retrofit our suggested change to the RBS and MCS at a 'more convenient' time every effort be made to address this issue head on and include this change as part of the overall system improvement process currently being undertaken.

ASFA seeks urgent consideration of this matter as the Rollover MIG is in its final stages of preparation prior to being published as a standard and the requirements for post July 2013 2013 MCS are in the process of finalisation.

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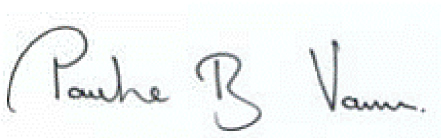
Should you have any questions please contact our Principal Policy Adviser, Robert Hodge, on 02 8079 0806.

Yours sincerely



Pauline Vamos
Chief Executive Officer