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Senate Economics Legislation Committee
Inquiry into Treasury Amendment
(2018 Superannuation Measures No. 1)
Bill 2018 [Provisions]

An Amnesty for Employers on unpaid superannuation

Thank you for the opportunity to provide a submission on the recently announced amnesty on superannuation payments.

This amnesty is a welcome decision by the government.

As this committee is probably well aware by now, COSBOA believes that employers should be removed from collecting superannuation and as a result we would not need amnesties.

Why do we need an amnesty now?

We as a society do not trust employees to manage their own superannuation funds. We place the onus on the employer. Over 90% of employers are small business people. So, we determine that we cannot trust the person who owns the money with their own money and we place that demand on another individual. The only individual in the superannuation collection process who doesn't get paid is the small business person. The only individual who can get fined is the small business person.

We do not compensate that small business employer for their time and effort yet we fine them if they do not do the superannuation industry's work on time. We let the superannuation funds treat small business people like they are serfs and the funds are their feudal lords.

The funds do not get punished if they badger, scam or lie to these small business people. The funds often lose information as well which makes an employers job more difficult yet there is no regulation of funds and their approach to collection.

Those employers who deliberately keep employees' money are not likely to use the amnesty. These people are thankfully in the minority, the ATO estimates that some 95% of employers are compliant. The miscreants will be pursued through normal channels.

There are however plenty of valid reasons why an honest business person, the great majority, may not have payed their workers' superannuation on time. They may have forgotten because they had a sick child or a personal health problem or some other pressing issue. Once forgotten then there is a real fear of the extraordinary fines that can be applied for not paying on time. The fines will run into thousands of dollars and potentially be enough to bankrupt an employer.

How do they pay when they have missed the deadline when they have a very valid reason, when a business person is in the hands of inept bullying fund managers?

We note that the fines and punishments will increase at the end of the amnesty. We also note that a state government has plans to gaol people who do not pay superannuation. So those who do not get paid to do the work of others could end up fined more or in gaol for not providing free labour.

We have other proposals besides removing employers from the system to resolve this problem.

Our first solution is to pay the employees all their earnings less tax. Then the employee will need to manage their own money and send it to the fund of their choice. It is after all their pay. They would be fined or sent to gaol if they do not forward money to the funds. Of course this would probably not work as the employee would be tempted to use their own money on other things. If this happened we would perhaps need to build a lot more prisons.

Our second solution is that small businesses receive payment for completing superannuation processing. We have a model for determining how much a business should receive and how the payment process should proceed.

Currently Woolworths, one of Australia's biggest companies, and the SDA union, one of our biggest unions, have an agreement in place on collection of union membership fees from employees.

Basically, Woolworths will collect union membership fees from employees and remit this to the SDA. The SDA will then rebate back to Woolworths 10% of fees collected.

These large organisations have worked out that the cost of processing payments equates to 10% of money collected. This formula shows that the cost to business of collecting superannuation is over \$5 billion per year.

We propose that businesses who remit their superannuation payments on time receive a 10% rebate from the superannuation industry for the effort and time spent.

In summary the amnesty must be applied and communicated through all processes available to the small business community.

But to ensure we no longer need amnesties business must be taken out of the collection system or be remunerated for the work they do.

If this does not change COSBOA will have to recommend that a business does not directly employ staff and they only use contractors or labour hire firms. The risk to the individual employer, to his or her family and personal relationships, to their health and to their property would be too high.

Please contact Peter Strong for further information.

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