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5 March 2010

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

Subject: Tax Laws Amendment (2010 Measures No. 1) Bill 2010 –
Proposed Clearing House Arrangements

Dear Members

We welcome the opportunity to make a submission to the Committee. We note that we have previously provided comments on the draft Bill to the Treasury – a copy of these comments is set out in Attachment 1.

Who is Mercer?

Mercer provides consulting and administrative services to a significant number of superannuation funds (including industry plans, master trust, corporate funds and government sector funds) as well as to employer clients. We also provide our own master trust which currently has in excess of \$14 billion of assets. Our Human Capital business provides advice to employers in relation to workforce planning issues etc.

We also operate a clearing house arrangement under the name of MercerSpectrum in conjunction with SuperChoice Services Pty Ltd and we are therefore well placed to comment on the Bill from the perspectives of a superannuation provider/trustee, employer and operator of a clearing house.

There is a clear need to require all contributions to be processed through a clearing house

We believe that it is imperative to reduce the costs involved in the superannuation system. Costs need to be reduced for superannuation funds as well as employers.



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As indicated in our response to the Super System Review (see Attachment 2 for an extract), data problems and the inability for funds to use Tax File Numbers as a primary identifier are two of the major inefficiencies in the system. We note that the quality of data is significantly improved where contributions are remitted through a clearing house. The clearing house is able to resolve many of the data problems before they reach the fund.

As recommended in our submission to the Super System review, we believe that all employer contributions (other than for defined benefits) be paid through a clearing house system. A single centralised clearing house which could provide consistency would be the most appropriate solution.

We therefore support the main concept of the Bill – the establishment of a clearing house for small employers.

However this should be only a first step in the process. Further steps would be:

- making use of a clearing house compulsory for small employers;
- requiring electronic payment of contributions through the clearing house;
- extending the compulsory use of a clearing house and electronic contribution payment to all employers;
- rationalising the process through the use of one centralised clearing house.

Concerns with current Bill and process to date

In relation to the Bill and its application to small employers we have the following concerns:

1. Based on the provisions of the Bill, we note that employers who use an approved clearing house will be considered to have met various contribution requirements if the contributions are received by the “approved clearing house” by the relevant due date. Choice of fund requirements can also be satisfied subject to the employer providing details of the employee’s chosen fund.

This is an important step, and one which we have been arguing for several years should occur. (Currently, an employer using a clearing house must arrange for the clearing house to receive the contributions several days before the due date in order for the contributions to be processed and remitted to the relevant funds by the due date.)



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However, it appears that these special provisions are intended to be restricted to those employers who use the Medicare clearing house. This is a major concern as it is likely to cause considerable confusion for employers as well as resulting in a non-level playing field for existing clearing houses as well as employers.

It is critical that these provisions be extended to all clearing houses which meet certain standards. Such an extension will:

- reduce the costs of complying with Superannuation Guarantee contribution requirements and choice of fund requirements for all employers who elect to utilise a clearing house;
- encourage the use of clearing houses which will result in better data being received by superannuation funds leading to reduced superannuation fund costs and improved outcomes for fund members.

The Government should immediately put in place a mechanism under which clearing houses can achieve “approved clearing house” status. This would then extend the provisions of this Bill which relate to the timing requirements for contributions to employers who contribute to any approved clearing house.

2. For a clearing house to operate successfully, we believe that it needs to have experience in the provision of such a service, experience in handling superannuation data queries and experience in dealing with employers and superannuation funds in resolving issues which arise. We were therefore surprised at the choice of Medicare as the provider, particularly as no tender process appears to have been undertaken. Whilst Medicare may have been successful in administering other arrangements, the complexities of superannuation are going to be a significant challenge to its operational capabilities. (We note that this comment is not intended to imply any criticism of Medicare or the abilities of its staff. Our point is to highlight that a number of existing clearing houses already have the experience and expertise to handle the clearing house role.)

The application of a more transparent selection process and the opening up of the tendering process to private sector organisations should be an important part of any further development of a clearing house structure.



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3. In our earlier submission to the Treasury, we also raised a number of practical issues which will need to be resolved relating to the eligibility of employers using the service including how the number of employees is to be calculated and the consequences of changing numbers of employees. We have not yet seen any proposals that would address these issues.

If you wish to discuss this submission, please contact John Ward on 03 9623 5552.

Yours Sincerely

A handwritten signature in blue ink that reads 'John Ward'.

John Ward
Manager, Research and Information



ATTACHMENT 1 – MERCER SUBMISSION TO THE TREASURY ON THE DRAFT BILL

22 December 2009

General Manager
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: chsuper@treasury.gov.au

Subject: Superannuation Clearing House - Exposure Draft of Legislation and Associated Explanatory Material

Dear Sir

We welcome the opportunity to comment on the exposure draft Tax Laws Amendment (2010 Measures No. 1) Bill 2010 relating to the proposed optional superannuation clearing house service. We have four main points:

1. We support the proposals that enable employers to meet various contribution obligations by contributing through an approved clearing house;
2. Details of how clearing houses can be added to the approved list need to be released urgently;
3. Employers who contribute to the Medicare clearing house should be able to continue contributing to the clearing house even if the number of employees increases to 20 or more. Alternatively, the 19 employee limit needs to be framed so that employers, who at some stage exceed the limit, have sufficient time to change processes.
4. We recommend that Australia adopts a similar model to the NZ KiwiSaver model whereby **all** employer contributions for members with accumulation benefits have to be transmitted by the employer to a government agency (central clearing house) who vets the data quality and passes on fully reconciled data in a standard format to superannuation funds.

We expand on these points below:



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1. Meeting contribution requirements

We strongly support the content of the draft Bill. In particular we consider that it is appropriate that an employer will be considered to have met the following requirements by making contributions to an approved clearing house (rather than the relevant super fund as currently required) within existing time frames:

- Payment of SG contributions within 28 days of the end of each quarter;
- Choice of fund contribution requirements (provided that the employer has given the employee's notice choosing a fund to the clearing house within 21 days);
- Payment of member after tax contributions within 28 days after the end of the month the payment was deducted from salary.

We also agree that these provisions should not just apply to the proposed clearing house to be administered by Medicare but should also be extended to other bona fide clearing houses unless/until a central clearing house system is adopted (see point 4). Unless there is a standard set of rules applicable to all bona fide clearing houses, then there will be considerable confusion amongst employers with resultant unintentional breaches of the requirements. For example, an employer contributing through the Medicare clearing house will expect that the same rules apply to contributions made to another clearing house (eg if they are no longer eligible to use the Medicare clearing house once the number of employees exceeds 19).

2. Who can be an approved clearing house?

We note that the Bill defines an approved clearing house as one that is listed in the Regulations for this purpose. The information provided for comment does not include details of the requirements for other clearing houses to be listed in the Regulations. In order to minimise confusion (see point 1 above) and to improve the quality of data provided to super funds in general (see point 4 below) we consider it critical that all bona fide clearing houses be able to obtain listing. Listing requirements should be announced urgently so that appropriate approvals can be obtained by 1 July 2010.

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3. Eligibility for Medicare clearing house

We note that there has not yet been any clarification as to how the “less than 20 employee” rule will be administered. For example:

- Will the number of employees be based on the actual number of employees at a point of time or over the whole quarter?
- Will it be based on the number of full-time equivalent positions rather than the total of full-time, part-time and casual employees?
- Will the number of employees exclude employees for whom SG contributions are not required?
- Will the number of employees be based on the number of employees for whom the employer remits contributions through the clearing house or the total number of employees (eg if the employer remits contributions to the default fund directly and only contributes to other funds through the clearing house)?

Irrespective of the method, the rules need to be set in a manner which enables the employer to plan in advance. For example, if the employer who is contributing to the clearing house exceeds the 19 employee limit towards the end of a quarter, it should still be able to contribute to the clearing house for that quarter. Otherwise there is unlikely to be sufficient time for the employer to change processes and contribute to the various superannuation funds chosen by employees, hence resulting in breaches and significant penalties.

A preferable approach would be to allow an employer who is using the Medicare clearing house to continue using it even if the number of employees increases to 20 or more.

4. Voluntary or compulsory?

Based on our experience, the quality of data provided where contributions pass through a clearing house is significantly higher than if data is provided directly. Poor quality data is a significant contributor to the problem of lost members. We believe that all employers should be required to contribute through a clearing house. Hence, as part of our submission to the current Super System Review, we are recommending that Australia adopts a similar model to the NZ KiwiSaver model whereby **all** employer contributions for members with accumulation benefits have to be transmitted by the employer to a government agency (central clearing house) who vets the data quality and passes on fully reconciled data in a standard format to superannuation funds.



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We note that the ability to satisfy the SG, choice of fund and employee after tax contribution timing rules by contributing to a clearing house will provide greater incentive for employers to use a clearing house. Nevertheless, making clearing house usage compulsory would be a major step forward in improving data quality, increasing efficiency and reducing the number of lost accounts.

Who is Mercer

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We also operate a clearing house arrangement under the name of MercerSpectrum in conjunction with SuperChoice Services Pty Ltd and we are therefore well placed to comment on the proposals from the perspectives of a superannuation provider/trustee, employer and operator of a clearing house.

Please contact me on 03 9623 5552 if you require any further detail on our comments.

Yours sincerely

A handwritten signature in blue ink that reads 'John Ward'.

John Ward
Manager, Research and Information



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ATTACHMENT 2 – EXTRACT FROM MERCER SUBMISSION TO SECOND PHASE OF SUPER SYETEM REVIEW (14 DECEMBER 2009)

Executive Summary

1. Data problems (refer particularly to Sections 6.1.1 and 6.1.3)

Data problems generally result from:

- poor member data provided by employers;
- employers providing insufficient (or incorrect) reconciliations of contribution payments; and
- the lack of a unique member identifier which can be used for identification purposes.

Problems include:

- additional costs and delays incurred by funds reconciling contribution data;
- an increased likelihood of the member becoming lost; and
- increased costs of identifying members when a benefit payment or rollover is made.

Mercer's Recommendations:

- All employer contributions in respect of accumulation benefits should be transmitted by the employer to a central clearing house which vets the data quality and passes on fully reconciled data in a standard format to superannuation funds (see R(6.1) 1);
- The Government should intervene to set rules and impose data standards over the payment routes in the superannuation system to assist funds to improve efficiencies and deliver lower costs. This would also apply to protocols for rollovers (see R(6.1) 3);
- TFNs should be used as the primary identifier (see R(6.3) 5 and R(6.4) 2);
- Where a fund does not have a member's TFN, then all contributions should be paid to the ATO (see R(6.4) 2).

Based on our experience, we consider these changes will result in considerable efficiency gains due to more accurate information, reconciled contributions, less manual handling of cheques and a much improved ability to subsequently locate members who would otherwise have become lost.



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6 DESIGN ARCHITECTURE

6.1 TECHNOLOGY

6.1.1 Quantum Leap

Based on our practical experience, forwarding data and contributions through a clearing house system significantly increases data quality and efficiency.

We recommend that Australia adopts a similar model to the NZ KiwiSaver model whereby all employer contributions for members with accumulation benefits have to be transmitted by the employer to a central government agency (clearing house) who vets the data quality and passes on fully reconciled data in a standard format to superannuation funds.

However, unlike the KiwiSaver model, we are not suggesting that the Government name default providers for individuals who do not choose a valid fund. We believe that the current approach to default funds be retained to ensure minimal disruption to the current system ie the employer nominates a default fund (when registering to use the clearing system) for its employees subject to the requirements of any relevant award (although refer to our comments in section 6.2 regarding our concerns in relation to the nominating of default funds in awards).

Additional resources would be required by the central agency, and consideration should be given to asking the public sector to tender to provide the necessary infrastructure. The improvement in data quality for superannuation funds is expected to significantly reduce administration costs by:

- ensuring that member and contribution data is provided in a standardised form;
- ensuring that appropriate member data is available for all accounts which will reduce the incidence of multiple accounts and lost member accounts;
- ensuring that the allocation of contributions between employees reconcile with the total contributions paid;
- minimise manual handling of cheques as contributions will be remitted electronically.



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6.1.3 Data standards

We agree that Government intervention to set rules and impose data standards over the payment routes in the superannuation system would assist funds to improve efficiencies and deliver lower costs. (See response to 6.1.1 above.) Data would have to be provided by employers to the centralised agency in a prescribed electronic format. The centralised agency would carry out data integrity checks, resolve any data issues with the employer, and transmit fully reconciled electronic data and monies to chosen funds and default funds.

Consideration should also be given to prescribing information standards and protocols for other transactions such as rollovers between funds. Having said that, the real benefits of standards will be substantially increased if a central clearing house is also put in place.