



**Australian Government**  
**Department of Immigration and Citizenship**

SECRETARY

3 October 2008

Mr John Hawkins  
Secretary  
Senate Standing Committee on  
Economics  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

File ref: ADF2008/15650

Dear Mr Hawkins

**Temporary Residents' Superannuation Legislation Amendment Bill 2008  
and the Superannuation (Departing Australia Superannuation Payments Tax)  
Amendment Bill 2008**

Please find attached the Department of Immigration and Citizenship's submission into the inquiry on the Temporary Residents' Superannuation Legislation Amendment Bill 2008 and the Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2008 (Attachment A).

Should you have any queries, please do not hesitate to contact Stephen Wood, Assistant Secretary, Program Analysis and Support Branch, on 02 6225 6452.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'A. Metcalfe', with a large loop at the end of the signature.

(Andrew Metcalfe)

**people** our business

## ATTACHMENT A

# SUBMISSION TO THE SENATE ECONOMICS COMMITTEE INQUIRY INTO TEMPORARY RESIDENTS' SUPERANNUATION LEGISLATION AMENDMENT BILL 2008 AND THE SUPERANNUATION (DEPARTING AUSTRALIA SUPERANNUATION PAYMENTS TAX) AMENDMENT BILL 2008

by the Department of Immigration and Citizenship

### **Introduction**

The Treasury's proposed Temporary Residents' Superannuation Legislation Amendment Bill 2008 and Superannuation (Departing Australia Superannuation Payments Tax) Bill 2008 seeks to reduce the number of lost superannuation accounts and unclaimed money left in Australian funds by former temporary residents following their departure from Australia.

Under the Temporary Residents' Superannuation Legislation Amendment Bill 2008, the Department of Immigration and Citizenship (DIAC) is authorised to provide migration and citizenship information on former temporary residents in Australia to the Australian Taxation Office (ATO). DIAC's role is therefore administrative and focuses on supporting the Treasury and the ATO, which are the lead agencies.

### **Persons to whom the Temporary Residents' Superannuation Legislation Amendment Bill 2008 applies**

The Temporary Residents' Superannuation Legislation Amendment Bill 2008 proposes to provide that the Commissioner must give a written notice to a superannuation provider where the Commissioner has reasonable grounds for believing that a particular person has a superannuation interest in the fund and the person was:

- the holder of a temporary visa; and
- left Australia; and
- 6 months have passed since the later of the following events (or either of them if they occur at the same time):
  - the visa ceases to be in effect;
  - the person left Australia.

Importantly, however, the Bill proposes to allow departed temporary visa holders to recover any amounts paid to the Commissioner as unclaimed superannuation where certain conditions have been satisfied (subject to a departing Australia superannuation payment withholding tax).

The Bill does not apply to permanent visa holders, Australian and New Zealand citizens, certain prescribed visa holders or an applicant for a permanent visa that has not been finally determined under the *Migration Act 1958*.

DIAC has developed a cost-effective, within budget, technical solution to align with the requirements of both the Treasury and the ATO. Inter-agency project teams continue to work closely in refining the proposed solution.

### **Privacy and disclosure of information**

Included in the Bill is a legislative facility authorising the department to disclose migration and citizenship information on temporary residents to the Commissioner of Taxation.

Information that could be given to the ATO includes:

- whether a person is or was the holder of a visa;
- whether a person is or was an Australian or New Zealand citizen;
- whether a person left Australia at a particular time or during a particular period;
- whether a person has made a valid application for a permanent visa; or
- confirming whether a person by reference to any employment of, or work done by that persons is the same person as a particular person who is or was the holder of a temporary visa at a particular time or in a particular period.

### **Process**

It is intended that there be an initial transfer of information to the ATO followed by quarterly updates.

The proposed arrangement is that where ATO identify a match to a person affected by the measure, prior to approaching the relevant superannuation fund, ATO will check with this department to confirm the status of the person.

### **Information campaign**

DIAC will work with the Treasury and ATO on the development of communication material and activities to promote awareness of the proposed measure.