

GMS Flash Alert

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Australia - Bill Could Heighten ATO Powers over Employers' Superannuation Compliance

On 24 January 2018, the federal government released Exposure Draft (ED) *Treasury Laws Amendment (Taxation and Superannuation Guarantee Integrity Measures) Bill 2018* to strengthen the integrity of Australia's system for mandatory employer superannuation contributions (SG).¹ If enacted, the draft legislation would provide the Australian Taxation Office (ATO) with additional powers, including:

- Directing employers who fail to meet their SG obligations to undertake SG education courses;
- Directing employers to pay overdue SG liabilities, with new criminal penalties for failure to comply with such a direction;
- Disclosing information to workers about actual or suspected failure by their employer to meet its SG obligations, and the action that the ATO is taking in relation to the situation.

WHY THIS MATTERS

Employers should particularly take note of the third item above. Under the proposed legislation, if an employee made a complaint to the ATO about his/her employer failing to make the required superannuation contributions, the ATO could now take the lead in communications with other employees who might be similarly affected. In such cases, this would imply more involvement by the ATO where employers are concerned.

Additional Aspects of the ED

The ED also includes proposing:

- changes to the single touch payroll (STP) reporting rules relating to superannuation contributions;
- removing salary sacrifice contributions from the assessment of whether the employer has met its SG obligation.

The ED emphasizes that:

- employers are not required to report actual superannuation contributions through STP – this obligation will fall on the receiving fund.

KPMG NOTE

These proposals are indicative of the increased focus that government is placing on compliance. Coupled with the real-time data that STP will make available to the ATO, this presents a strong case to employers to thoroughly review their processes and practices in relation to SG.

FOOTNOTE:

1 For the Exposure Draft and Explanatory Material, see: <https://treasury.gov.au/consultation/c2018-t256652/> .

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Contact us

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