Queensland Government

Queensland Treasury

Our Ref: 04558-2023

Dr Steven Kennedy PSM
Secretary
The Treasury
Langton Crescent
PARKES ACT 2600

Attn: Ms Wendy Hau, Director, Superannuation Access and Compliance Unit

Email: paydaysuper@treasury.gov.au

Dear Dr Kennedy

The Queensland Government supports the policy objectives outlined in the Treasury's consultation paper, *Securing Australians' Superannuation*, and has long provided employees with superannuation contributions within seven days of the end of the employee's pay period.

Nonetheless, there are a number of practical matters we would like your officers to consider in developing the implementation model for payday superannuation. These are outlined in the enclosure to this letter. The enclosure has been prepared in consultation with payroll services for Queensland Government departments and major statutory bodies. We look forward to the opportunity to have further input as the scheme is developed.

If your officers require any further information, or would like to discuss these issues further with Queensland Government payroll providers, please contact Dr Jozef Latten, Principal Treasury Analyst, Fiscal Division, Queensland Treasury, on (07) 3035 6373 or GovSuperOfficer@treasury.qld.gov.au, who will be pleased to assist.

Yours sincerely

Michael Carey
Under Treasurer

7 / 11 / 2023

Encl. (1)

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SECURING AUSTRALIANS' SUPERANNUATION – CONSULTATION PAPER
Queensland Treasury Comments and Feedback

Overview and Background
This submission has been prepared by Queensland Treasury in consultation with Queensland Government payroll services.

The Queensland Government is one of the largest employers in Australia, with over 300,000 people on its payrolls.

The Queensland Government supports the policy objectives outlined in the *Securing Australians' Superannuation* consultation paper, namely increasing the frequency of superannuation contributions to match salary payment frequency and to avoid non and underpayment of employer superannuation contributions. The Queensland Government already achieves these objectives for its employees.

As a matter of course, Queensland Government departments pay superannuation contributions within one week after the end of a pay period in which salary is paid to employees, and hence supports the policy objective of "payday super". In practice, many employees receive their pay several days in advance of the end of the pay period, so superannuation contributions may be paid into the employee's fund up to ten days after an employee's wages or salary is paid into their bank account, although in many instances contributions are paid sooner.

The main issue for the Queensland Government is translating the "payday super" policy outcome into achievable operational requirements.

Payday definition
Departments often make a small proportion of salary payments on an ad hoc basis or in advance of a regular payday, for example, when employees resign or have personal reasons for requiring pay in advance. While payroll systems have been designed to manage these advance payments, it would not be practical to align superannuation contributions with these advance pay events. There are considerable quality assurance processes involved in preparing data and payments for submission to the Government's clearing house provider for SuperStream reporting and distribution of contributions to employees' superannuation funds. This means that defining a payday as any time an OTE component is paid is impractical for large employers such as the Queensland Government.

It is suggested that an alternative would be for a "payday" to be:
- where wages and salaries are paid within a regular scheduled pay period for that pay period, the day at the end of the employer's regular, scheduled pay period,
- where wages and salaries are paid in arrears of a regular scheduled pay period, the day salaries are paid.

Where the pay day is not a business day, the payday should be the next business day. Ad-hoc or advance payments should be considered part of the scheduled payday as described above.

While most Queensland Government Departments pay salaries or wages within a pay period, Queensland Health, for example, pays salaries and wages ten days in arrears with the agreement of employee representatives (for example, to accommodate changes to rosters at short notice).

It is only where the employer does not provide regular scheduled "paydays" that the fall back position should be when an OTE component is paid.

Implementation Model
We note that it can take some time for contribution payments and data to be matched within a clearing house, and then for contributions to be distributed to employees' superannuation funds. Employers using a clearing house to manage the distribution of contributions to employees' funds and SuperStream reporting obligations have no control over a clearing house's timeframes and should not be held accountable for the clearing house's obligations, other than the enforcement of any contractual obligations between the parties.

Therefore, an alternative model to the employer payment model or due date model is a variant on the latter, which would be for the obligation on employers to pay contributions within a set number of business days from payday to a clearing house, where used. Five business days from the payday as described above may be a suitable time period for payments and data submissions to be made to a clearing house (where used).

Compliance and Regulator Discretion
For employers such as the Queensland Government and presumably most large employers, the main compliance concern in paying the correct superannuation contributions arises from the application and construction of awards and enterprise agreements and how these are reflected in the programming of payroll systems. In addition, large departments can have a high volume of new appointments at particular times of the year, which involve a significant manual workload due to cross-checking as well as an increased the risk of errors in entering employee data into payroll systems. Tight compliance requirements could potentially push large employers into non-compliance.

Issues arise when there are changes negotiated in agreements which are then backdated, or when new allowances are introduced or the circumstances in which an allowance is paid is changed (e.g. where an allowance was previously not ordinary time earnings and due to changes in circumstances becomes ordinary time earnings). The compliance risk arises where there may be errors in coding these changes into payroll systems, or in the case of backdating, where significant volumes of retrospective calculations or manual processing is involved.

In payrolls with regular changes in rostering arrangements, reconciliation and error corrections require some time, and overpayments are not unusual. Compliance processes should account for the need to correct errors such overpayments through an ability for the employer to recover overpaid superannuation or at least offset the overpayment against future contribution obligations, ideally through SuperStream, or its successor should there be one.

It is considered that there should be scope for discretion on part of the regulator to waive penalties and administration charges where the employer inadvertently failed to meet their superannuation guarantee obligations and voluntarily has made good employer obligations and self-reported instances of non-compliance. In these circumstances unpaid contributions and payment for foregone earnings should be the obligations on employers, not payment of penalties or arbitrary administration charges unrelated to actual cost.

Queensland Government Superannuation and potential compliance issues

One other area where regulator discretion may need to be considered is where employer contributions exceed an employee's concessional contributions cap. Queensland Government contribution arrangements do not apply the maximum contributions base. Consequently, some employees may receive employer contributions which exceed the concessional contributions cap. The Queensland Government's contribution arrangements do permit employees to agree with their employers a "salary for superannuation purposes", which would result in employer contributions equalling the concessional contributions cap. This may result in some pay periods where employees may receive no superannuation contributions, that is, not comply with a strict obligation to pay superannuation linked to that pay period, even though over the financial year, the employer will have exceeded superannuation guarantee obligations (as the SG rate of the MCB is always less than or equal to the concessional contributions cap).

A substantial number of Queensland Government employees are defined benefit members. The Queensland Government's defined benefit scheme is an unfunded public sector scheme, with employer contributions remitted to the Consolidated Fund for investment at the same time as member contributions are paid to the Government Division of Australian Retirement Trust (the fund). As such, the State makes advance provision for its share of benefits, which are paid to the fund when benefits become due. As defined benefit employer contributions are not made to the fund, the proposed ATO reconciliation process should recognise the unique funding arrangements of defined benefit schemes.

Reporting

Finally, any change in employer reporting obligations must not result in inconsistent reporting requirements for single touch payroll and SuperStream. Such reporting should be streamlined and minimise duplication and, where practicable, incorporate near real-time validation processes in the SuperStream process.

The complexities and constraints the new 'payday super' model would introduce, the reconciliation and error management processes involved in superannuation file submissions would be significantly large and complex and could not be undertaken in heavily restricted timeframes. Doing so would place the quality and integrity of the process at risk and thereby further risking the accuracy of payment to employee funds. In rolling out the reporting requirements, the ATO should consult with employers, superannuation funds, superannuation clearing houses and payroll software vendors on technology solutions that provide secure and efficient processes for validating and reporting both payroll and superannuation information and payments.

There should also be a realistic transition period for changes to single touch payroll and SuperStream processes, with a possible extension process as with previous roll-outs of these processes. Payroll systems are often provided under a software as a service model, and payroll services are reliant on third party vendors to reconfigure systems. These vendors often have a large number of clients, and the lead time to introduce changes to payroll systems can be significant.