



Mr Chris Toyne
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Dear Mr Toyne

REGULATION IMPACT ASSESSMENT – FINAL ASSESSMENT SECOND PASS

I am writing in relation to the attached Regulation Impact Statement (RIS) prepared for the extension of Single Touch Payroll to small business (employers with 19 or fewer employees).

I believe the RIS meets best practice requirements and is consistent with the ten principles for Australian Government policy makers.

In particular, the seven RIS questions have been answered:

- *What is the problem?*

Currently, small businesses are faced with high compliance costs and regulatory burden in complying with their employee tax and superannuation reporting obligations. Multiple separate reporting requirements to the Australian Taxation Office (ATO) and other government agencies and entities are often not aligned with each other, and there is a separation between the calculation, reporting and payment requirements which gives rise to duplication.

This has contributed to Pay-As-You-Go (PAYG) Withholding and Superannuation Guarantee (SG) contribution non-compliance by small business. Presently the ATO has limited oversight of whether small businesses are meeting their SG obligations as the ATO only receives information on payments on an annual basis. Without visibility of what employees are owed and contributions made to funds it is difficult for the ATO to take actions to enforce compliance with SG.

The lack of synergy in reporting has also resulted in government inefficiencies due to the reliance on manual processes across government agencies to meet employment obligations.

- *Why is government action needed?*

Government intervention will address the failure of the current regulatory regime to achieve its compliance objectives, as demonstrated by the significant and ongoing employer non-compliance with SG, and to transform reporting of employee tax and superannuation reporting obligations to a digital, real-time basis. The latter will align reporting to government of tax and superannuation with

normal payroll functions undertaken by employers (rather than it being on different timelines) thereby reducing duplication of effort and record-keeping.

- *What policy options are you considering?*

To this end, the following policy options are available to Government.

Option 1: Maintain the status.

Option 2: Require real-time reporting of employee tax and superannuation obligations, with the option to make voluntary payments.

Option 3: Require real-time reporting of employee tax and superannuation obligations with mandatory payments.

- *What is the likely net benefit of each option?*

Option 1: Status Quo

This option results in the current reporting process continuing with voluntarily adoption of Single Touch Payroll available to small business employers.

The estimated 60% of small business employers who are not expected to adopt Single Touch Payroll would avoid the initial implementation costs. However, while it is expected that over time the number of small businesses using software will increase as more products become available, consequently helping to reduce their overall administrative burden, even with software small business employers often need to reconcile the amounts calculated each pay against the businesses' PAYG Withholding reporting and payment cycle. They would also need to reconcile annual amounts in order to provide an employee with their annual PAYG Payment Summary and lodge the PAYG payment summary annual report with the ATO. The high compliance costs and regulatory burden would therefore remain.

In addition maintaining the status quo would also preserve the continuing non-compliance by employers with their SG obligations as reporting of real-time information to the ATO would be voluntary.

Option 2: Require real-time reporting of employee tax and superannuation obligations, with the option to make voluntary payments

This option significantly strengthens the integrity of the Superannuation System while also providing an overall reduction in regulatory burden by small business through aligning the reporting of their employee tax and superannuation contribution information with their payroll event.

Real-time reporting will increase SG compliance by providing the ATO with increased visibility to monitor the payment of employee entitlements. This would enable the ATO to identify non-compliance by employers earlier and better inform affected employees.

As this option maintains the current payment cycle of tax and superannuation obligations, small businesses that operate on a monthly, quarterly or annual payment cycle shall continue to remit their obligations on that basis. Small businesses will have the option to make voluntary payments at the same time as they transmit their Single Touch Payroll report to the ATO if they choose.

Employees will also benefit under this option through timely, reliable and accurate reporting of their entitlements in myGov which can be viewed at any time during the financial year.

Option 3: Require real-time reporting of employee tax and superannuation obligations with mandatory payments

The real-time reporting benefits under Option 3 are the same as those identified in Option 2. However Option 3 requires small businesses to pay their tax and superannuation obligations at the same time as they submit their Single Touch Payroll report to the ATO.

While simultaneous real-time remittance of tax and superannuation payment obligations would help reduce overall compliance costs, altering the payment cycle may disrupt cash flow in small businesses resulting in additional financial pressure which would have negative effects on the economy.

More frequent payment of superannuation obligations will not necessarily improve compliance with SG as non-compliant small business employers often cite cash flow problems as the major reason for their failure to pay employees' superannuation entitlements. By disrupting cash flow arrangements, this option may actually worsen compliance with the SG for smaller employers.

This option would give rise to significant enforcement difficulties for the ATO, potentially making compliance more difficult for small businesses. Each employer would have a different time period over which superannuation obligations accrue – potentially a different period with respect to different employees – instead of the currently uniform quarterly period. The ATO would need to record these different periods and monitor compliance at a more granular level. These differential obligation periods would be administratively cumbersome and would likely occasion significant confusion among employers and advisers. It could also incentivise employers to pay their employees less frequently, which is not an intended policy outcome.

- *Who will you consult and how will you consult them?*

Since the announcement of the Single Touch Payroll initiative on 28 December 2014, significant stakeholder consultation has been undertaken, including a roundtable and targeted consultation. A pilot program by the ATO to demonstrate the deregulation benefits of Single Touch Payroll to small business commenced in late 2016, engaging over 130 small businesses along with software providers and tax practitioners. The ATO released its final report in September 2017 outlining its findings and recommendations.

In addition, targeted stakeholder consultation on the extension of Single Touch Payroll to small business was held in October 2017 which took into account views from the payroll, accounting, bookkeeping, tax advisory and small business sectors.

- *What is the best option from those you have considered?*

The best option is to extend Single Touch Payroll to small business with the option for employers to make voluntary payments (Option 2). This option provides the best balance between quantitative and qualitative benefits. This includes a reduction in a small business employer's compliance costs and regulatory burden, improved PAYG Withholding and SG contributions compliance which will deliver earlier and more helpful intervention by the ATO and better Government service delivery.

- *How will you implement and evaluate your chosen option?*

Option 2 will be implemented and managed using established program and project management methodologies and governance arrangements. The ATO has experience in implementing Single Touch Payroll to large businesses and the methods used can be transposed to small businesses.

Legislative amendments will be required to support employee-level event-based reporting for small employers. The ATO will continue to collaborate and consult with industry stakeholders and implement a campaign to support small businesses transition to Single Touch Payroll.

I am also satisfied the RIS addresses the concerns raised in your letter of 14 March 2018. Specifically the RIS:

- Includes the broader impacts of not having a reporting system that applies to all businesses, and how benefits accrue to small business and/or Government.
- Provides clarification on the reasons why Government action is needed and further details on the options being considered.
- Identifies all of the likely costs and benefits associated with the proposed regulatory change for each of the options.
- Details a more succinct consultation summary.

I note the regulatory cost estimates have been agreed with your office.

Accordingly, I am satisfied that the RIS now meets best practice consistent with the Australian Government Guide to Regulation.

I submit the RIS to the Office of Best Practice Regulation for formal assessment.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Murray Crowe', with a stylized flourish at the end.

Murray Crowe
Principal Adviser
On behalf of Deputy Secretary
Revenue Group