



Australian Government
Inspector-General of Taxation

**REVIEW INTO THE TAX OFFICE'S ADMINISTRATION OF THE
SUPERANNUATION GUARANTEE CHARGE**

TERMS OF REFERENCE AND CONSULTATION PLAN

Background

The superannuation guarantee system began on 1 July 1992 and represents an important pillar of Australia's retirement income system. It requires all employers to provide a minimum level of superannuation each year for each employee, currently set at 9 per cent of an employee's remuneration. Where an employer fails to provide the minimum level of support, the employer is liable to pay a non-deductible charge called the Superannuation Guarantee Charge (SGC).

The Commissioner of Taxation is charged with the general administration of the SGC scheme and collects the charge where employers do not provide a minimum level of superannuation support for their employees. Between 2002 and 2006 successive governments provided additional support to the ATO, including specific additional funding, to improve its enforcement and compliance monitoring of whether employers are providing the required level of superannuation support.

The ATO agreed to improve employer compliance through enhanced data matching to determine SGC shortfalls, client communication, and the issuing of default assessments to employers. This included the provision of improved services to employees with concerns about payments of employer superannuation contributions. Backlogs of inquiries and more timely completion of future investigations were also to be addressed.

The ATO was also to provide employees with more advice on the progress of superannuation guarantee inquiries. The then Assistant Treasurer said that improving the timeliness and quality of ATO investigations into superannuation payments made by an employee's past or present employer would significantly reduce the level of frustration that employees may have with the administration of SGC.

Stakeholders raised concerns with the general level of compliance in this area and, in particular, the ATO's timeliness and responsiveness to employee complaints regarding the non-payment of superannuation guarantee. Concerns were also expressed about the adequacy of the ATO's enforcement action and monitoring and the level of outstanding SGC collected.

Changes to the superannuation legislation were introduced to increase information disclosure to address a common cause of employee complaint. The Ombudsman has kept a watching brief on the implementation of the new legislation and finalised an informal review in early 2008-09. The Inspector-General intends to work together with the Ombudsman's office in the course of this review to identify appropriate opportunities for improvement in the ATO's compliance approaches and handling of employee complaints.

Focus and Terms of Reference

This review will examine the ATO's administration of SGC including identifying the level of non-compliance and assessing the ATO's non-compliance detection mechanisms and approaches following detection.

The review will consider the ATO's:

- risk assessment strategies for SGC and its implementation of strategies to improve compliance (such as education, employer assistance, audit and enforcement);
- communication strategies with employees raising concerns with their employer's compliance, the timeliness of actioning employee notifications and the level of information provided about the collection of unpaid superannuation; and
- timeliness in collecting unpaid superannuation guarantee.

The Inspector-General announced on 10 March 2009 that this review would be placed on his forward work program. This review has been commenced by the Inspector-General on his own initiative in accordance with subsection 8(1) of the *Inspector-General of Taxation Act 2003*.

Aims of the review

The review will aim to identify and recommend changes that will assist the Tax Office to improve the early identification of superannuation guarantee shortfalls, the timely handling of employee complaints and the prompt collection of outstanding superannuation guarantee.

Consultation Processes

The Inspector-General will:

- publish a copy of the terms of reference for this review on his website at www.igt.gov.au;
- take submissions on this review from members of the public generally, or from particular people or organisations, within the time frame set out below; and
- request the Commissioner of Taxation to provide information and/or documents relevant to this review.

Contacting the Inspector-General of Taxation

Submissions should be focussed on the terms of reference for the review and should ideally be received by 3 July 2009 and further information may be obtained on (02) 8239 2111. Submissions may be sent:

- By email: sgcreview@igt.gov.au
- By post:
 Consultation on the Administration of the Superannuation Guarantee Charge
 Inspector-General of Taxation
 GPO Box 551
 SYDNEY NSW 2001
- By facsimile: (02) 8239 2100