

*[Received by email 6/8/10]*

**Subject: ATO comment on draft recommendation 2.3 of the Productivity Commission draft research paper 'Annual review of regulatory burdens on Business: Business and consumer services' June 2010**

**PURPOSE**

I am writing to provide the ATO's comments on draft recommendation 2.3-Releasing Superannuation Benefits for Departing Temporary Residents.

**BACKGROUND**

Draft Recommendation 2.3-Releasing superannuation benefits for departing temporary residents states that:

*The Australian Taxation Office and the Department of Immigration and Citizenship should examine options that give departing temporary residents the ability to apply for their Australian superannuation payments at or before the time of their departure, rather than after they have left Australia.*

**ATO COMMENTS**

As the administrator of those parts of the tax legislation relating to Departing Australia Superannuation Payments (DASP), the ATO recognises the importance of providing temporary residents with a seamless application process which meets with legislative requirements.

To this end, the ATO is supportive of any improvement/efficiency in the process, and is happy to work with IFSA and DIAC on that.

A temporary resident can already apply for DASP before they leave Australia, and the application is held pending their departure. This is because the current legislation requires a temporary resident to depart Australia, as a pre-condition to payment of their super benefit.

This last element could be changed, although we think it would materially increase compliance risk, and we would, on a preliminary view, be inclined to the position that change to this requirement should not proceed. APRA administers the operating standards by which funds are permitted to cash/pay these benefits to departing members, and they should be consulted on any policy change.

Adding to the process at the point of departure is not favoured. It adds to the workload of staff in affected agencies, is of limited effectiveness, and is difficult to communicate to people who have many other things to turn their mind to at that time.

Notwithstanding the terms of the law, the rules and processes of some funds require hard copy signatures and other material. It is these additional processes (often directed to risk elimination) that, in our view, typically create the concerns raised by IFSA. Our understanding is that funds would generally seek to confirm identity and the fact of departure - these are issues to be taken up with APRA in their role as administrator of the affected funds.

We would like to see funds move to greater online dealing - generally in line with the recommendations in the recent Cooper Review.

**Action**

If you have any questions, please contact [...]

Brett Peterson  
Assistant Commissioner | Superannuation  
Australian Taxation Office

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