Unclaimed Money (Superannuation and RSA Providers) Amendment and Expiry Bill 2012

Explanatory Memorandum

The changes in the Unclaimed Money (Superannuation and RSA Providers) Amendment and Expiry Bill 2012 are provided in the next sections.

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Explanatory Memorandum

Unclaimed Money (Superannuation and RSA Providers) Act 2003 (UMA)

Up until 30 July 2007, private superannuation providers registered in Western Australia were required under the UMA to pay unclaimed superannuation, meeting the SUMLMA definition of ‘unclaimed superannuation’ to the State Treasurer.

Following amendments to the SUMLMA by the Commonwealth effective from 1 July 2007, unclaimed superannuation paid to a State or Territory Treasurer by private sector funds under State or Territory legislation was instead required to be paid to the ATO from this date.

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Explanatory Memorandum

Overview of amendments in the Bill

Amendments to the Unclaimed Money (Superannuation and RSA Providers) Act 2003 (UMA)

Reference

Bill
Page number(s)
Clause number(s)
3, 4 and 5
35
3, 4 and 5

Comment

The changes in the Bill:

- Insert new definitions into the UMA that refer to appropriate parts of the SUMLMA relevant to the transfer of unclaimed superannuation held by public sector authorities to the ATO;
- Insert provisions into the Bill referring to payment by the Treasurer of unclaimed superannuation held in the Consolidated Account to the Commonwealth Commissioner for Taxation and delivery to the Commissioner of all individual superannuation member records and documents associated with this payment; and
- Provide for regulations to be made pursuant to the SUMLMA to administer matters relevant to the transfer of unclaimed superannuation to the ATO.

Amendments to the State Superannuation Act 2000 (SSA)

Reference

Bill
Page number(s)
6 - 7
6 - 7

Comment

The changes in the Bill:

- Amend the relevant sections of the SSA to provide for another category of authorised payments from the GES Fund, being payments of unclaimed superannuation monies to the ATO;
- Insert new definitions into the SSA that refer to appropriate parts of the SUMLMA relevant to the transfer of unclaimed superannuation held by public sector superannuation funds to the ATO; and
- Provide for regulations to be made pursuant to the SSA in relation to administrative matters associated with the transfer to the ATO of all individual superannuation records and documents associated with this payment; and
- Insert provisions into the SSA referring to payment by the Treasurer of unclaimed superannuation held by public sector authorities to the ATO;
- Insert new definitions into the SSA that refer to appropriate parts of the SUMLMA relevant to the transfer of unclaimed superannuation to the ATO.

Overview of amendments in the Bill

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Explanation of Memorandum

Amendment

Unclaimed Money (Superannuation and RSA Providers) Amendment and Expiry Bill 2012
Clause Notes

Outlined below is an examination of the contents of the Bill on a clause by clause basis.

PART 1 - PRELIMINARY

Clause 1

Short title

This clause titles the legislation as the Unclaimed Money (Superannuation and RSA Providers) Amendment and Expiry Act 2012 (the Amendment Act).

Clause 2

commencement

This clause provides for the Amendment Act to come into operation as follows:

- Sections 1 and 2 on the day on which the Amendment Act receives the Royal Assent.
- The rest of the Amendment Act on a day fixed by proclamation, and different days may be fixed for different provisions.

PART 2 - UNCLAIMED MONEY (SUPERANNUATION AND RSA PROVIDERS) ACT 2003 AMENDED

Clause 3

The Act amended

This clause clarifies that this part of the Amendment Act amends the Unclaimed Money (Superannuation and RSA Providers) Act 2003 (UMA).

Clause 4

Section 4 amended

This clause provides the meanings of terms used in the UMA.

Subclause 4(1) deletes the existing definition of unclaimed money from section 4 because of stylistic inconsistencies and the expiry of the UMA.

Subclause 4(2) inserts into section 4 the terms used for interpretation in relation to the transfer of unclaimed superannuation monies collected under the UMA to the ATO.

Clause 5

New sections 27 and 28 inserted

New sections 27 and 28 are inserted after existing section 26 to provide:

- Payments of unclaimed monies by the Treasurer to a claimant under the UMA will cease once the Amendment Act comes into operation.
- Unclaimed monies collected under the UMA still held in the Consolidated Account at the transfer date are to be paid to the ATO within the time frame specified in section 15A of the Commonwealth Act (SUMLMA).
- All relevant records and documentation associated with the above payment will cease once the Amendment Act comes into operation.
- Payments under this section are to be charged to the Consolidated Account and appropriated accordingly.
Unclaimed Money (Superannuation and RSA Providers) Amendment and Expiry Bill 2012

Explanatory Memorandum

Clause 5

New sections 27 and 28 inserted

(continued)

New section 28

Act to expire:

Provides for expiry of the UMA once the transfer of unclaimed monies to the ATO pursuant to new section 27 has been made.

The above will occur once:

- the Treasurer is satisfied there is no reason for the UMA to continue;
- a notice to this effect is published in the Government Gazette, upon which the UMA will expire at the end of the day on which the notice is published.

PART 3

STATE SUPERANNUATION ACT 2000 AMENDED

Clause 6

The Act amended

This clause clarifies that this part of the Amendment Act amends the State Superannuation Act 2000 (SSA).

Section 38

This clause amends the superannuation provisions in the SSA to provide for new powers to amend or repeal existing sections of the SSA if the Treasurer is satisfied that a new section 38(4)(d) is necessary.

Clause 7

Subclause 7(1)

Deals with a consequential grammatical amendment to section 38(6A) after existing subsection 38(6A).

Subclause 7(2)

Deals with the transfer of unclaimed monies from the GES Fund to the ATO, in accordance with new subsection 38(6A).

Subclause 7(3)

Deals with the amendment of existing subsection 38(5D) containing terms used for interpretation for the purposes of the deleted subsection. These terms are reinserted in new subsection 38(9), containing terms used for interpretation for the purposes of section 38.

Subclause 7(4)

Deals with the insertion of new subsection 38(9) after existing subsection 38(8), containing terms used for interpretation for the purposes of section 38.

Subclause 7(5)

Deals with the insertion of new subsection 38(6A) after existing subsection 38(5) to provide for any regulations needed to be made under the SSA to support the transfer of unclaimed monies to the ATO.

Subclause 7(6)

Deals with the insertion of new subsection 38(9) after existing subsection 38(8), which contains in the one place all interpretive terms used for the purposes of section 38.

Section 38

This clause amends the SSA to provide for new powers to amend or repeal existing sections of the SSA if the Treasurer is satisfied that a new section 38(4)(d) is necessary.