

6 October 2008

Clerk of the Committee  
Finance & Expenditure Committee  
Select Committee Office  
Room 10.04, Bowen House  
Parliament Buildings  
WELLINGTON

To the Chair of the Select Committee,

## **ASFONZ Submission on the Taxation (International Taxation, Life Insurance, and Remedial Matters) Bill**

We wish to submit the attached in respect of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Bill.

ASFONZ is an independent, national, not-for-profit membership organisation founded in 1969. Its current membership comprises around 100 major workplace superannuation schemes and around 50 organisations and individuals representing the various product and service providers for workplace superannuation.

The mission of ASFONZ is to promote workplace superannuation in New Zealand.

ASFONZ seeks to achieve that mission through:

- 1 **Advocacy** – being the recognised voice for all employers and trustees involved in workplace superannuation, through:
  - (a) advocating legislative and public policy initiatives beneficial to the industry;
  - (b) making submissions and commentary on existing legislative and public policy initiatives;
  - (c) issuing regular press releases and other public commentary on matters of wider concern or interest to members; and
  - (d) staying in regular contact with responsible Ministers, regulatory and industry bodies, the Retirement Commissioner and Government Departments to project, promote and advance members' interests.
- 2 **Education** – promoting trustee, employer and member education through dedicated training programmes, newsletters and special interest seminars.
- 3 **Networking** – providing trustees, employers and service providers involved in workplace superannuation with a regular forum for sharing ideas and information on industry matters.

Thank you for the opportunity to make this submission.

Yours sincerely



Bruce Kerr  
Executive Director

**ASFONZ**

**(The Association of Superannuation Funds of New Zealand Incorporated)**

**Submission to the**

**Finance and Expenditure Select Committee**

**on the**

**Taxation (International Taxation, Life Insurance, and  
Remedial Matters) Bill ("the Bill")**

**October 2008**

## The ASFONZ submission

ASFONZ is concerned that the changes brought about by the Employment Relations Act 2000 by sections 5, 7 8 and 10 of the Employment Relations (Breaks, Infant Feeding, and Other Matters) Amendment Act 2008 introduce significant uncertainty for employers offering their employees workplace superannuation outside the KiwiSaver regime.

The unintended effects are, in our view, perverse. If left unaddressed, the changes introduced may result in a number of employers ceasing to make subsidised superannuation arrangements available through the workplace, which may result in a reduction in the overall level of retirement savings made through the workplace.

We believe that there is need for immediate and clarifying amendments. It is for this reason that we make this submission so that required changes can be accommodated alongside other changes related to matters under the jurisdiction of Inland Revenue introduced via the Taxation (International Taxation, Life Insurance, and Remedial Matters) Bill.

In ASFONZ view, the new personal grievance provisions in sections 5, 7 8 and 10 of the 2008 Amendment Act should be limited to a situation where an employee's salary or wage is reduced by compulsory employer contributions to KiwiSaver or a Complying Superannuation Fund.

However, if that simple solution is not considered a viable approach, then our brief submissions are as follows:

1. Amendments needs to be made to make it clear that employers can lawfully:
  - a. offset other superannuation contributions against compulsory employer contributions payable to a KiwiSaver scheme or a Complying Superannuation Fund;
  - b. agree to any form of sacrifice arrangement that does not involve an employee trading-off salary or wages against such compulsory employer contributions.
2. Clarification is required around the extended grounds for a personal grievance claim to ensure:
  - a. the concept of 'variations of employment agreements' does not capture matters unrelated to compulsory employer contributions (such as mere salary or wages increases);
  - b. the extended grounds should only apply (in the case of a Complying Superannuation Fund) in respect of compulsory employer contributions that are made to that fund.

We would welcome the opportunity to discuss the details of our concerns with the Select Committee when it reconvenes.

ASFONZ is also willing to work with officials to draft appropriate changes to ensure that section 110A of the Employment Relations Act 2008 and related provisions become workable in the broader context of workplace superannuation arrangements.

The End