



SUPERANNUATION AND EMPLOYEE BENEFITS PRACTICE COMMITTEE

Information Note:

Benefit Certificates – Extension of deadline by ATO

November 2008

In September 2008, the Superannuation and Employee Benefits Practice Committee (“SEBPC”) issued a Notice to Members regarding the preparation of benefit certificates pending the development of a new Professional Standard.

In that Notice, it was foreshadowed that a discussion draft of the proposed new Professional Standard to replace Guidance Note 456 would be circulated to members in mid-October 2008. The development of the draft new Professional Standard has taken longer than expected and the discussion draft will now not be circulated until early 2009.

In the meantime, the Australian Taxation Office (ATO) has extended to 31 December 2008 the deadline for employers to obtain benefit certificates which cover the September 2008 quarter. The extension arises from changes to the superannuation guarantee (“SG”) legislation which mean that any existing benefit certificates which use an earnings base lower than Ordinary Time Earnings (OTE) beyond 1 July 2008 must be replaced with certificates that incorporate OTE requirements from 1 July 2008.

To help employers meet their superannuation guarantee requirements for the quarter ending 30 September 2008, the ATO has issued a [notice](#) advising that it will not apply any SG charge where an employer has:

- ▶ contributed the required amount under a previous benefit certificate by 28 October 2008; and
- ▶ obtained a new benefit certificate by 31 December 2008; and
- ▶ topped up any SG contributions shortfall (if applicable) within 28 days of receiving the new benefit certificate.

The SEBPC has confirmed with the ATO that the extension applies in cases where the expiry date of the previous benefit certificate was 30 June 2008, as well as in cases where the previous benefit certificate was written with an expiry date later than 30 June 2008.

The SEBPC considers that the first and third dot points above do not introduce any additional requirements for defined benefit-style minimum requisite benefits (MRBs), as



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the MRB for the September 2008 quarter must be designed to satisfy the Notional Employer Contribution Rate (NECR) % of OTE test in any event.

Where a new benefit certificate includes an accumulation-style MRB effective from 1 July 2008, the SEBPC interprets the first and third dot points above as allowing an extension where the MRB for the September 2008 quarter is based on the following timing of SG contributions:

- ▶ SG contributions for the September 2008 quarter based on the pre-1 July 2008 notional earnings base must be either paid by 28 October 2008 or credited at an effective date which is no later than 28 October 2008; and
- ▶ where OTE for the September 2008 quarter exceeds the pre-1 July 2008 notional earnings base, any resulting SG top-up contribution required by the new benefit certificate must be either paid within 28 days of receiving the new benefit certificate or credited at an effective date which is within 28 days of receiving the new benefit certificate.

Any queries regarding, or comments on, this Information Note should be directed to the SEBPC via email to paul.shallue@mercer.com