



Australian Road Transport  
Industrial Organisation

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## ARTIO PRESS RELEASE

### ARTIO SAVES INDUSTRY TENS OF MILLIONS OF DOLLARS

The Australian Road Transport Industrial Organisation (ARTIO), which represents over 400 member companies engaged in the transport industry, both long and short haul operations, has achieved a major victory over the Australian Tax Office (ATO) on behalf of the industry.

ARTIO commended the Australian Tax Office (ATO) for listening to its concerns and amending its draft ruling on how employers should calculate superannuation contributions on behalf of their employees. **Abandoning the position that superannuation should be paid on 'regular overtime' will save the transport industry tens of millions of dollars annually.**

The ATO issued a Draft Ruling in November 2008 which changed the basis for calculating contribution obligations, in that, it amended the well established and accepted definition of 'ordinary time earnings' (OTE) to include any earnings paid for 'regular, usual, customary or normal' working hours. This change meant that 'regular overtime' would have to be included by an employer in calculating an employee's superannuation entitlements. Philip Lovel AM, ARTIO's Secretary Treasurer, stated:

"The cost impact would have been enormous adding between 5 and 6 % to the payroll of most transport companies without any ability to increase prices and would have cost the industry in excess of \$50 million annually."

In conjunction with Pitcher Partners, ARTIO prepared a detailed submission opposing the draft ruling and providing a comprehensive analysis of the impacts the ATO draft ruling would have. The submission concluded that the change in interpretation was not supported by any legislative amendment and that it would have resulted in a shift to a

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system where no employer would have been sure whether or not they were complying with their superannuation obligations until after the event.

“As well as being without legal foundation, on a practical assessment ‘regular, usual, customary or normal’ hours could only ever be determined after the overtime had occurred and too late for employers to comply with their superannuation obligations. It never could have worked in our industry.” Mr Lovel said.

Further, ARTIO met with both the Finance Minister, the Hon Lindsay Tanner, in early December and the Superannuation Minister, the Hon Nick Sherry, in mid January to continue to lobby for a change in the ATO position. Subsequently, a detailed letter was forwarded to Minister Sherry and he advised in response that both the Government and ATO were well aware of business concerns about the changes to OTE but the ATO needed to conclude its deliberations on this matter.

The final ruling which was issued by the ATO today returned the definition of OTE to how it has always operated and been well understood.

“If the ATO had persisted with this change and required superannuation to be paid on ‘regular overtime’ it would have been difficult to understand and impossible to administer. This is a common sense outcome that will provide some stability to the transport industry” Mr Lovel said.

He went on to compliment the ATO for not only listening to ARTIO, but also acting upon the genuine concerns expressed on behalf of the transport industry.

ARTIO is the only nationally registered Industrial Organisation in the road transport industry and represents the industrial interests of the State Transport/Trucking Associations, except South Australia.

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