

Discussion items regarding the proposal to consolidate reporting of workcover and payroll tax into Business Activity Statements

Issue Raised	Response
<p>1. Choice of workers compensation agent or insurer – Qld is the only system where there is only one provider of workers compensation insurance. In the other states the employer needs to choose their workers compensation agent in the centrally managed fund states (NSW, Vic and SA) or private underwriter (WA, ACT, Tas, NT) so how might an employer make an informed choice. (Insurance brokers also play a role in the privately underwritten states and in Vic and they will deal with Agents/underwriters directly on behalf of their clients)</p>	<p>Taking the requirement to find an insurer away from the employer would be a positive outcome as it is one less organisation they need to deal with.</p> <p>The employer wouldn't need to make a choice, it is set for them and appears on their BAS with no effort required from them.</p> <p>The choice of workcover provider would then only be required if they needed to lodge a claim. This is where they could talk to different providers if they wanted to.</p> <p>The vast majority of employers may not need to interact with any workcover representative.</p>
<p>2. In the privately underwritten states the premium is “negotiable” so the employer will be advised to shop around before selecting the underwriter. In determining the premium the underwriter will have regard to many issues not just the payroll and the industry sector e.g. Safety systems etc. (this may be minimal for an entirely new business but needs to be considered particularly as the business builds its workers compensation history).</p>	<p>The base premium which appears on the BAS should be calculated on the assumption there are safe working practices in place and no claims history.</p> <p>Claims histories would trigger involvement from workcover and the whole process of adjusted premiums could be dealt with directly with the employer. A separate invoice could be issued for the additional premium. This would mean that for those businesses that are impacted, it involves additional contact with workcover, however this is currently the case under the existing system.</p> <p>The benefit is to all the other employers who don't have claims histories and therefore wont need to do anything.</p>
<p>3. In the centrally managed fund states particularly NSW and Vic the churn rate between agents is low(probably less than 5% among smaller employers) but attempts are made to get agents to compete on service- breaking the nexus between premium payment and the agent may threaten this objective.</p>	<p>Under the BAS system there is no requirement for agents to be involved in the base premium collections. The agents could still compete for premiums and service, however it will be in relation to additional amounts from employers with claims histories (item 2) & contractors (item 5).</p>

<p>4. Choosing the appropriate WIC rate can require a level of skill/insight and is currently done by Agents – the incidence of incorrect industry classifications may well rise e.g. how many employers will incorrectly assume they can have different rates for their office and production staff. What will prevent employers from gaming the system by misreporting industry classifications (there are over 520)</p>	<p>Aligning the industry rates to the ANZIC codes used by the ATO already provided by the business when they applied for an ABN removes the need to try to find another suitable industry classification code.</p> <p>Audit activity and penalties might be a deterrent for selecting an inappropriate industry code.</p>
<p>5. A person who is not an employee for PRT may be an employee for workers compensation purposes. There are some “ workers’ who are deemed to be employees for workers compensation purposes and there has also been a long history of problems when it comes to some people who are contractors for income tax purposes but who are employees for workers compensation purposes. The answer to who is/is not an employee depends on the facts and the final answer can be tested in the workers comp commission so even ICare can’t guarantee what it decides will stick. The problem became so bad in the mid 2000’s that (then) WorkCover implemented a system where employers could get rulings as to whether or not a person was an employee for WC purposes. The ruling did not protect the employer from future premium impacts if the person was found to be an employee, but it does protect the employer who gets the ruling from back premiums, interest and penalties. It’s worth noting that many of the employers who got caught in the mid 2000’s had relied on advice from their accountants. So simply linking premiums to payroll tax returns may unintentionally mislead employers as to their premium obligations.</p>	<p>I agree this is one of the key reasons the current system is so complicated. So much time is spent arguing who should and shouldn’t be included as an employee, and so many people, including accountants, get it wrong.</p> <p>My proposal is to remove this discussion from the basic calculation and treat the contentious areas, ie contractors, as a separate item (similar to claims histories).</p> <p>Businesses who engage contractors would need to contact workcover and arrange cover for these people separately. Workcover could have this as a focus area for those industries that typically engage contractors, ie construction.</p>
<p>6. The solution to 5 is to legislatively redefine who is an employee for WC purposes. Only one state has tried that, Qld. They tried using PAYE but that didn’t last very long – and I doubt it would survive a change of gov’t in NSW (assuming the current gov’t</p>	<p>As per answer to 5</p>

would take on trying to change the Act – which I think is mot's unlikely)	
7. Trust distributions in lieu of wages are counted as remuneration for workers compensation purposes and ICare can impute a value so trusts may be unintentionally misled as to their premium obligations.	Trust distributions and dividends paid in lieu of wages could be dealt with separately. Perhaps in the Trust tax return next to the distribution, or in the Company tax return dividend schedule, a box could be ticked if the trust/company is carrying on a business and the distribution/dividend is paid to a working beneficiary in lieu of wages.
8. Self-insurers (there ae about 50 or so in NSW) don't pay premiums https://www.workcover.nsw.gov.au/insurance/self-insurers/list-of-self-insurers	The same rules could be applied and nothing appears on their BAS.
9. Specialised insurers are not obliged to use the ICare premium formula. There are 6 specialised insurers in NSW including racing NSW, Hospitality (Clubs and Hotels) and State Cover (Local Gov't) so there are significant numbers of employers who are outside statutory scheme : Note employers in the relevant industries are not obliged to take out cover with the specialised insurer they may opt to sate in the statutory scheme.	This wouldn't be applicable under the BAS method.
10. For experience rated employers their premium will be affected by their claims history (there are about 14000 employers in NSW in this category). That gets sorted out after the commencement of the premium year. Those expecting/getting reductions may not be too happy about paying higher premiums via monthly payments until the new premium gets sorted out (those facing increases might have an entirely different view – at least in the short term)	As per item 2, the base premium would not change, therefore they would not be out of pocket. The claims premium would be issued separately by Workcover.
11. Employers can get discounts for paying premiums in advance- not all will want to pay monthly/quarterly. Employers with premiums of less than \$1K do not pay be instalments.	Reduced compliance cost are likely to be more attractive than early payment discounts.

<p>12. Some employers get premium funding and premiums are paid by the funding organisation not by the employer (who pays the funding organisation).</p>	<p>The attraction of premium funding is to spread the payments throughout the year. The BAS option will allow this to happen and they won't be charged interest for doing it.</p>
<p>13. Changing payment schedules may have an impact on Scheme finances – premium collections are over \$2B pa so small changes may have significant \$ impacts. (Note WorkCover Vic wont touch anything which threatens or changes the financial performance of the scheme).</p>	<p>It could cut a whole layer of costs out of their Scheme by removing the need to employ people to collect the premiums. It would be interesting to see how much money is spent collecting premiums and paying consultants to undertake audits on their behalf.</p>
<p>14. Previous attempts to get agreement between OSR and ICare (orkCover)have been spectacularly unsuccessful (and despite the involvement of a former judge) – the organisations have different objectives and they have been unwilling/unable to move. Add cross border and the challenges go up exponentially.</p>	<p>Based on an earlier email, I believe a lot of this was to do with trying to agree on a definition of employee and on a definition of wages. The BAS proposal removes this uncertainty and uses two figures (gross wages and superannuation) that are very easy to extract from payroll systems.</p>
<p>15. Attempts to get common definitions via Safe Work Australia have also failed.</p>	<p>As per item 14</p>
<p>16. When it comes to workers comp employers have to make two wages declarations a year – at the beginning and at the end of the premium year. A few years ago (then) WorkCover moved all renewals to the nearest month end and gave employers the opportunity to move their renewal date to a time which is sensible for them e.g. 30 June . I don't know if that facility is still in place . If it is it needs to be promoted and if not it should be brought back and promoted.</p>	<p>Not required under the BAS method.</p>