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21 November 2013

Dr Kathleen Dermody  
The Secretary  
Senate Economics Legislation Committee, SG.64  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

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Dear Dr Dermody

### **Inquiry into Minerals Resource Rent Tax Repeal and Other Measures Bill 2013**

Thank you for the opportunity to provide comments relating to the Minerals Resource Rent Tax Repeal and Other Measures Bill. The legislation broaches a range of issues of interest to the business community and ACCI welcomes the opportunity to provide input in respect of these matters.

ACCI has from the outset opposed the introduction of the Minerals Resource Rent Tax (MRRT) on the resources industry. The MRRT is poorly designed, amplifies the inefficiencies of existing systems of royalties and has greatly disappointed relative to the expectations of the revenue it would generate. The MRRT was implemented hastily and with limited consultation with industry or the broader public, poor process has generated a poorly structured tax and undermined its legitimacy within the community.

When the MRRT was introduced the former government announced that it would help fund the gradual increase in the Superannuation Guarantee Levy (SGL) from 9 to 12 per cent. Statements by Ministers of the former government gave the misleading impression that it was taxpayers that would bear the burden of the increase in the SGL. In reality it is Australian business that is called upon to pay the additional annual superannuation liability associated with the progressive rise in the SGL.

A budget impact from the increase in the SGL only arises because superannuation contributions are taxed at a lower rate relative to income and a higher levy would lead to a higher level of superannuation contributions and lower level of income over the forward estimates period. It was a constant point of frustration within the business community that the cost of the 3 percentage point increase in the SGL was misrepresented as being funded by the mining tax.

ACCI remains opposed to the scheduled increase in the SGL from 9 to 12 per cent. Once fully implemented the increase in compulsory contributions will impose an annual cost on business of at least \$20bn in today's dollars. This represents a significant new cost burden for industry for which no offset has been provided in our industrial relations frameworks. The Henry Tax Review opposed increasing the SGL further and business support that finding and the reasoning underpinning that recommendation.

The Chamber welcomes the measures contained in Schedule 6 which would delay the next two phased increases to the SGL. However, due to the timing of the next phased increase from 1 July 2014, it is vitally important that the Bill be enacted and commence prior to this critical date. Further, ACCI believes the government should review its longer term



commitment to increase the SGL to 12 per cent as part of the consideration of the appropriate size of government being undertaken by the National Commission of Audit.

The depth of business, and particularly small business, support for a delay to the next two phased-in increases to the SGL was borne out in the ACCI *2013 Pre-Election Survey*. The survey found that 81.6 per cent of businesses indicated they are concerned about the increase in the superannuation levy from 9 to 12 per cent and 58.9 per cent of business strongly agreed that the government should defer the increase in the SGL until they find an appropriate mechanism to compensate for the cost increase for businesses.

The previous increases to the SGL were not offset by any explicit or broadly based corresponding concession to business to allow them to absorb these increases to their payrolls. This is of particular concern where businesses pay award rates of pay and must pass on the full increase to the SGL unless provision is made for an explicit wage-super trade-off. There remains no pending funding measure in the immediate future to assist business manage the entire phased-in increases to the SGL, nor is there any real mechanism for an adequate wage-super trade-off.

The Bill to repeal the MRRT and other associated measures will abolish a range of tax measures that were notionally funded by the mining tax. ACCI believes that some of these tax measures, such as changes to the capital allowances for small business entities and the loss carry-back regime for companies, have merit in their own right and should always have been decoupled from the MRRT legislation and funded independently.

At the very least, the delay of the next two scheduled increases in the SGL will be welcome relief for small to medium sized businesses and enable the economy, especially in the non-resources sectors, to secure a measure of relief from the increasingly high costs of doing business in Australia. Small business employers, buffeted by rising costs and declining profitability, can only keep funding the retirement incomes of staff if they are strong and profitable.

ACCI has in the past outlined to the Committee the basis upon which we opposed the increase in the SGL that was part of the MRRT package of bills when they were first introduced by the previous government. To the extent that our position with respect to the phased increases to the SGL are relevant to this inquiry, ACCI refers the Committee to the submissions which were provided to the Senate Standing Committees on Economics Parliamentary committee inquiry<sup>1</sup> and to an opinion-editorial by ACCI Chief Executive Peter Anderson published in *The Australian* on 5 December 2011 (attached).

In relation to the carry back of losses mechanism, ACCI calls on the Government to implement the Henry Review's recommendation to allow businesses to carry back losses to offset it against prior year's taxable income (Henry Review's Recommendation 31).

The current taxation system treats gains and losses asymmetrically, where gains are taxed as they accrue, while losses are not refunded but can be carried forward and used against future income, subject to the continuity of ownership test and the same business test. Current limitations on the use of tax losses discourage entrepreneurship and risk-taking as well as disadvantaging small businesses and firms engaged in risky investment.

Restrictions on loss utilisation also limit the ability of the tax system to serve as an automatic stabiliser during an economic downturn as the tax value of deductions is not recouped by businesses until they have income to offset losses against.

ACCI supports the Henry Review's recommendation to increase the threshold for assets

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<sup>1</sup>[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/Completed%20inquiries/2010-13/MRRTBill2011/submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Completed%20inquiries/2010-13/MRRTBill2011/submissions)

that small businesses can immediately write-off to \$10,000 in the income year the asset is first used or installed ready for use. This measure will provide cash flow benefits for the small business sector and simplify their capital allowance arrangements.

**Yours sincerely,**

**Burchell Wilson**  
**Chief Economist (Acting)**  
**Director of Economics and Industry Policy (Acting)**

# MEDIA CLIP I

The Australian  
Monday 5 December 2011  
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Section: Commentary



## PARLIAMENT TRASHES ITS OWN NEW PARADIGM ON SUPER LEVY HIKE

*Truth is parliamentarians have let the business community down*

PETER ANDERSON

AT the exact hour on Thursday a week ago when the parliamentary speakership changed from Harry Jenkins to Peter Slipper, the political paradigm of minority government was being tested 2km away, by 26 employer associations.

Businesspeople are pragmatic. It's not the personalities or party affiliations of speakers or leaders that most worry them.

It's what politicians do or don't do that matters.

When it came to how Australian employers had been treated on superannuation policy, their representatives gave the

new paradigm a big thumbs-down.

Most employers are small and medium business people in our suburbs, towns and local centres. While they were hard at work, the House of Representatives passed a law that imposes seven extra levies on their payroll over the next eight years, forcing them to pay 12 per cent superannuation on top of staff wages.

Presently employers pay 9 per cent into staff superannuation. When implemented, the extra cost will be \$20 billion a year in compulsory levies.

The new political paradigm

promised to bring new transparency to parliament. Truth is, this superannuation levy bill was hidden with the mining tax bills, debated cogently as the parliament called it.

Any chance of a real and transparent debate about funding retirement incomes was swamped by the debate about how to tax the resource industry.

Neither the government nor the independents wanted a separate debate on superannuation. It was just called, in parliamentary language, a "related bill".

The new paradigm promised to bring fair process to parliament. Truth is, the House of Representatives set up its inquiry into the mining tax and this "related bill" on a Thursday, and closed submissions the following Tuesday. That's three working days' notice to hundreds of thousands of em-

ployers, who were effectively excluded from the process.

The new paradigm promised to bring independent thought and scrutiny to parliament. Truth is, the independent body set up by the government to look at these issues, the Henry tax review, specifically recommended against increasing the employer superannuation levy.

Amazingly, the government decided to do the very opposite and the independents, who spruiked the Henry tax review at the recent

tax forum, didn't bat an eyelid in disagreement.

The new paradigm promised to bring fairness to the parliament. Truth is, none of the politicians who voted for the superannuation bill bothered to ask even basic questions of equity, such as why it is fair to expect small and medium employers to fund a bigger burden of retirement incomes when the owners don't have the money to squirrel away 12 per cent of income for their own superannuation?

Or why is it fair for the government to cost-shift its pension bill to private employers who already pay taxes that fund the pension? Or why in Australia is all of the compulsory levy paid by employers when many other countries share the cost between government, employees and business?

And, above all, the new para-

digim promised to impose accountability on government. The sad truth is that the independents allowed government minister after minister to mislead the community for the past year by claiming that we need the mining tax to give people higher superannuation, when in fact the mining tax revenue was never funding the superannuation levy, but the nation's employers.

That this was publicly conceded by government ministers only after the vote was taken added a bitter taste to an ordinary episode.

To make matters worse, the parliament killed off the government's hope that the levy rise could be funded by employers discounting future wages. It didn't pass a law requiring that of its wages tribunal, nor did it learn industrial relations lesson 101. Which union in its right mind will

agree to a wage-superannuation trade-off in bargaining when the parliament has already imposed the super payment on the boss? Experience tells me, none.

And if the new paradigm was supposed to impose greater financial rigour on government, why wasn't the government asked to prove that the 1 per cent corporate tax cut and the accelerated small business asset write-off measures (both good policy) could fund the \$20bn superannuation bill?

I've been around long enough to know that this wasn't asked because the answer is inconvenient to politicians who want to avoid being criticised for blocking higher superannuation. Truth is, these compensating measures account for only about 10 per cent of the cost of the levy rise, even before you factor in the reality that more than 200,000 employers who pay

compulsory super don't get the company tax reduction because they are unincorporated.

It's a sad finish to the parliamentary year when the parliament trashes its own new paradigm, especially when a \$20bn levy hike on the people creating the nation's wealth and jobs is given such short shrift in the name of politics. And it does a disservice to a necessary debate about funding retirement incomes and its link to some of the good reform measures the government is pushing through on the finance industry.

While Speaker Slipper slipped into the big chair, the boot was sunk into employers, and with it a parliamentary fair go.

*Peter Anderson is the chief executive of the Australian Chamber of Commerce and Industry.*