

Chapter 2

Views on the Bill

2.1 The committee heard from a broad range of witnesses who, in varying degrees, supported or opposed different aspects of the Bill. For the most part witnesses focused on specific aspects of the Bill, rather than supporting or opposing the Bill as a whole.

2.2 Mining companies and peak bodies were strongly supportive of the repeal of the MRRT. These companies and peak bodies were broadly united in arguing that the MRRT was a poorly designed tax which imposed a significant compliance cost on the Australian mining industry and undermined the industry's competitiveness. In contrast, other witnesses argued that the MRRT provided a mechanism, however flawed, for capturing the rents earned through the exploitation of Australia's non-renewable resources.

2.3 A number of witnesses addressed the repeal of the loss carry-back regime. Broadly speaking, witnesses argued that that the loss carry-back regime was a useful means of reducing the asymmetrical treatment of tax losses in Australia.

2.4 Similarly, several witnesses advocated retaining in their current form the small business capital allowances that would be revised by the Bill. Others, however, acknowledged the difficulty in retaining the current measures given the challenging fiscal situation confronting the government.

2.5 Superannuation organisations and peak bodies were united in arguing for the retention of the LISC as a means of addressing the effective lack of concessions available on the superannuation contributions of low income earners.

2.6 Similarly, most of these superannuation organisations argued against the rephrasing of the increase in the SG rate, although there was some recognition of why the rephrasing was necessary. In contrast, the Ai Group and the Australian Chamber of Commerce and Industry (ACCI) supported the rephrasing, while arguing that the government's broader commitment to lifting the rate to 12 per cent should be subject to review.

2.7 Welfare advocates and unions argued against the abolition of the income support bonus and the schoolkids bonus, underlining the apparent impact these changes would have on welfare recipients and low and middle income earners. Other witnesses, however, acknowledged the difficulties of funding these measures given the failure of the MRRT to raise any significant revenue and the imminent repeal of the tax.

Views on the Bill as a whole

2.8 As noted above, most witnesses addressed their comments to specific schedules to the Bill, rather than assessing it as a whole. One exception was the Australia Institute, which, in addition to criticising discrete parts of the Bill, also argued that:

...this package as a whole transfers income from something like 10 million Australians, including the poorest ... as well as at any time around 8.2 million wage and salary earners. The main beneficiaries, as we point out in the submission, are a handful of foreign owned corporations that are collectively worth \$200 billion.¹

2.9 The Australian Council of Trade Unions (ACTU) also noted its opposition to the Bill as a whole, suggesting:

...it is very rare in approaching an omnibus tax bill to not find any redeeming features in respect of any of the measures, but this is such a bill. We say all the elements of this bill are retrograde steps and we reject the bill in its entirety.²

2.10 The Australian Council of Social Service (ACOSS), meanwhile, challenged the packaging of the repeal of MRRT-related measures with the repeal of the MRRT, arguing that each measure should be assessed on its own merits. It referred, in this respect, to recommendations it had made in its submission to the Commission of Audit about how social spending could be funded by the government:

We have made a range of recommendations for how we can raise revenue and make savings in order to meet those social objectives, but as we were just discussing, the social expenditure measures in this bill have compelling social objectives behind them and there are pressing needs to be met in those areas. So the simplistic linking of this tax measure with these spending measures is hugely problematic and would cause great damage in the short term, by the abolition of those payments. I do not think this is the forum in which to do away with a range of measures that were making some, however small, progress towards greater equity in this country—by a knee-jerk abolition of those payments due to a point-of-time link with this tax measure.³

2.11 Although concerned with different aspects of the Bill than ACOSS, the ACCI also made the argument that decisions relating to certain measures in the Bill should not be linked to the MRRT. Specifically, the ACCI argued that existing small business

1 Mr David Richardson, Senior Research Fellow, The Australia Institute, *Proof Committee Hansard*, p. 2.

2 Mr Tim Lyons, Assistant Secretary, Australian Council of Trade Unions, *Proof Committee Hansard*, p. 2.

3 Ms Jacqui Phillips, Director of Policy and Campaigns, Australian Council of Social Service, *Proof Committee Hansard*, p. 8.

capital allowances and the loss carry-back regime 'have merit in their own right and should always have been decoupled from the MRRT legislation and funded independently.'⁴

2.12 Expanding on this point, the ACCI told the committee that:

...in the context of the overall Commonwealth budget, these measures are relatively small, particularly in circumstances where the incoming government is putting in place and able to put in place some different approaches to spending priorities leading up to the May budget next year. There should be mechanisms found inside the overall budget to keep funding these two measures.⁵

2.13 While noting that revenue from the MRRT was not directly hypothecated to measures in the Bill, Treasury agreed with the suggestion that, given the inherent volatility of MRRT revenue and the relative stability of the expenditure measures, the passage of the Bill would have a positive impact on the structural position of the budget on an ongoing basis.⁶

Schedule 1: Minerals resource rent tax

2.14 The committee received evidence both in support of retaining the MRRT (or an improved version of it), and in support of its repeal.

Arguments for retaining the MRRT

2.15 The ACTU, the Construction, Forestry, Mining and Energy Union (CFMEU) and the Shop, Distributive and Allied Employees' Association (SDA) argued in favour of resource rent taxation for the mining industry generally, and suggested that while the MRRT might be flawed in design, it should nonetheless be retained and improved, rather than abolished.⁷

2.16 ACOSS also spoke in favour of the idea of resource rent taxation. While conceding that the MRRT itself was flawed in design, ACOSS contended that:

4 Australian Chamber of Commerce and Industry, *Submission 18*, p. 2.

5 Mr Peter Anderson, Chief Executive, Australian Chamber of Commerce and Industry, *Proof Committee Hansard*, p. 11.

6 Mr Robert Heferen, Executive Director Revenue Group, Treasury, *Proof Committee Hansard*, p. 35.

7 Mr Tim Lyons, Assistant Secretary, Australian Council of Trade Unions, *Proof Committee Hansard*, pp. 3–4; Construction, Forestry, Mining and Energy Union, *Submission 3*, pp. 3, 5; Shop, Distributive and Allied Employees' Association, *Submission 5*, p. 1.

...if we were to choose to abolish a list of poorly designed, economically inefficient and distortionary taxes, there is a long queue ahead of the MRRT. It is still a relatively good tax, and we need the revenue.⁸

2.17 The Australia Institute, meanwhile, argued that the mining industry was paying relatively low levels of tax by historical standards, and that given the high levels of foreign ownership of mining operations in Australia, much of the benefit from mining was not going to the Australian community. At the same time, the Australia Institute rejected the idea that investment in the Australian mining industry had been adversely impacted by the MRRT. It further suggested that resource rent taxation was an efficient means of capturing a better return for Australians on the mining of the resources they owned.⁹

Responses to supporters of resource rent taxation and the MRRT

2.18 In evidence to the committee, the Minerals Council of Australia (MCA) disputed suggestions that resource rent taxation does not impact on investment decisions. This was, the MCA told the committee, simply a 'theoretical and conceptual argument,' and one that was not borne out by the mining industry's experience with the MRRT.¹⁰

2.19 The MCA also challenged the notion that the MRRT was a necessary or significant component in ensuring Australians benefited from mining in Australia. In particular, the MCA pointed to its most recent annual survey of taxes paid by the industry, which showed that mining companies had paid \$17.6 billion in company tax and state royalties in that tax year. This figure, it was stressed, did not include MRRT payments or indirect taxes, and made for an effective tax rate of 42 per cent.¹¹

2.20 For its part, the Association of Mining and Exploration Companies (AMEC) took issue with the idea that resource rent taxation was an efficient means of taxing non-renewable resources, and suggested governments should look elsewhere if it believed the Australian community was not receiving a fair share from mining:

I do not think that the MRRT or the RSPT were in any way a clever way in which the government and the Australian community were going to get their so-called fair share. There is already a system in place through the Commonwealth Grants Commission to achieve that. If you really want to

8 Mr Peter Davidson, Senior Advisor, Australian Council of Social Service, *Proof Committee Hansard*, p. 2.

9 Mr David Richardson, Senior Research Fellow, The Australia Institute, *Proof Committee Hansard*, p. 1; and Dr Richard Denniss, Executive Director, The Australia Institute, *Proof Committee Hansard*, p. 2.

10 Dr John Kunkel, Deputy Chief Executive Officer, Minerals Council of Australia, *Proof Committee Hansard*, p. 20.

11 Dr John Kunkel, Deputy Chief Executive Officer, Minerals Council of Australia, *Proof Committee Hansard*, pp. 21–22.

start somewhere and look at the taxation and the whole issue of fair share, go back to the CGC and go back to horizontal fiscal equalisation to see how that has played havoc with this whole system, including royalties.¹²

2.21 The MCA, AMEC and Treasury all rejected the suggestion from the Australia Institute that the benefit Australians received from mining activity was significantly reduced as a result of the high proportion of foreign investment in the sector. For example, the MCA told the committee that:

...there have been a range of studies by the Bureau of Resources and Energy Economics, the Reserve Bank and Treasury, which have looked at the various mechanisms by which the benefits have flowed around Australia both directly, in terms of incomes to workers, in terms of increased purchasers to suppliers. In the last couple of weeks, the Minerals Council released some new work that looked at what we would call the community spend. None of that is charity. That is business spending on local suppliers, including Indigenous contractors; its local infrastructure. An element of that is a voluntary contribution. That was of the order of \$34.7 billion.¹³

2.22 Similarly, Treasury told the committee that foreign investment increased the national income, along with wages and output. Asked about the idea that profits resulting from foreign investment in mining overwhelmingly flowed offshore, Treasury responded:

Clearly profit does not go offshore in the sense that the investment comes in and then income is earned in Australia, and once it is earned in Australia it is taxed in Australia under the company income tax system. Now there are ongoing debates about how much of that can be shifted out of Australia. Clearly when you are digging rocks out of the ground and shipping them off somewhere it is pretty hard to push too much of that value out of Australia, so there is some clear benefit to Australia from that point of view.¹⁴

2.23 The MCA also made the broader point that foreign investment was an important and necessary component of a successful Australian resources industry.¹⁵

12 Mr Simon Bennison, Chief Executive Officer, Association of Mining and Exploration Companies, *Proof Committee Hansard*, pp. 27–28.

13 Dr John Kunkel, Deputy Chief Executive Officer, Minerals Council of Australia, *Proof Committee Hansard*, p. 21.

14 Mr Robert Heferen, Executive Director Revenue Group, Treasury, *Proof Committee Hansard*, p. 40.

15 Dr John Kunkel, Deputy Chief Executive Officer, Minerals Council of Australia, *Proof Committee Hansard*, p. 21.

Support for repealing the MRRT

2.24 In contrast to the evidence received from the unions, ACOSS and the Australia Institute, mining companies and industry peak bodies voiced strong support for repealing the MRRT.

2.25 For instance, the Chamber of Minerals and Energy of Western Australia welcomed the proposed repeal, suggesting the MRRT:

...has been administratively onerous and costly as well as ineffective, falling significantly short of delivering the genuine tax reform needed to ensure Australia's continuing international competitiveness.¹⁶

2.26 Similarly, the ACCI indicated that it had consistently opposed the MRRT and supported its repeal, on the grounds that the MRRT was a poorly designed tax that was implemented without proper consultation with the mining industry.¹⁷

2.27 The Ai Group suggested that while there is a good case for a well-designed tax on 'super profits', the MRRT is itself 'very poorly designed and would not serve as an effective basis on which to build a well-designed approach.'¹⁸

2.28 Fortescue Metals Group (FMG) argued that tax systems should be 'simple, transparent and efficient,' and that the MRRT, and the previously proposed RSPT, 'fail absolutely on these essential tax principles.' Expanding on this point, FMG wrote in its submission that:

...the MRRT introduced a new layer of administrative complexity into an already highly regulated industry. Taxing at a 'project' level rather than a corporate level has further complicated matters and has significantly increased the cost of overall taxation compliance. Implementing the MRRT regime, in terms of systems modification requirements, technical consultancies and legal interpretation, within Fortescue alone has cost millions of dollars. The MRRT imposes an additional unnecessary layer of taxation on top of the existing State and Territory based royalty systems, and the Federal income tax regime, in a manner that does not simplify taxation, nor make the taxation process more efficient. In fact, since it is an entirely new tax impost all it has done is to increase the complexity of the compliance burden and necessarily acts as an investment deterrent due to perceptions of sovereign risk and the extent that it reduces forecast project returns.¹⁹

16 Chamber of Minerals and Energy of Western Australia, *Submission 2*, p. 2.

17 Australian Chamber of Commerce and Industry, *Submission 18*, p. 1; Mr Peter Anderson, Chief Executive, Australian Chamber of Commerce and Industry, *Proof Committee Hansard*, p. 9.

18 Ai Group, *Submission 22*, p. 2.

19 Fortescue Metals Group, *Submission 10*, p. 1.

2.29 In their appearance before the committee, representatives of Atlas Iron and BC Iron also underlined the high administrative and compliance costs associated with the MRRT.²⁰

2.30 AMEC argued strongly in favour of the repeal of the MRRT, telling the committee it was:

... an ill-conceived, poorly designed and discriminatory tax that should be rescinded and replaced with a long-term tax strategy that encouraged investment and was internationally competitive.²¹

2.31 AMEC outlined the administrative and compliance burden imposed by the tax, even for hundreds of companies that have a pre-mining interest in iron ore and coal but may never have an actual MRRT liability. It told the committee that:

...minimum total set-up costs in the first year of smaller iron ore and coal miners and junior exploration companies, excluding large miners, was estimated to be over \$20 million and ongoing administration and compliance costs in excess of \$2 million.²²

2.32 The MCA also told the committee that it thought the Explanatory Memorandum's estimated annual cost of \$10.5 million to the mining industry for compliance with the MRRT was:

...a fairly conservative estimate. There are not just the ongoing costs, which we think would be higher than that. I cannot give you a precise figure without doing a survey of the whole industry, but based on what we know it would be higher. Added to that are the setup costs, I guess you could call them. Throughout the debate there has been a lot of toing and froing—valuations had to be done for starting bases, there are IT costs, systems setups and other such things and dealings with the ATO. That would be a very substantial sum of money; we estimate it would be well in excess of \$30 million over the last three years. That is not taken account of in the bill itself, because they are sunk setup costs rather than ongoing costs.²³

2.33 In response to the MCA's point, Treasury acknowledged that its estimate of a \$10.5 million MRRT compliance cost for mining companies in Australia might well be on the conservative side, and readily allowed that companies themselves would be

20 Mr Marcus Hughes, Group Tax Manager, Fortescue Metals Group, Hunt and Brown, *Proof Committee Hansard*, p. 29.

21 Mr Simon Bennison, Chief Executive Officer, Association of Mining and Exploration Companies, *Proof Committee Hansard*, p. 25.

22 Mr Simon Bennison, Chief Executive Officer, Association of Mining and Exploration Companies, *Proof Committee Hansard*, p. 26.

23 Dr John Kunkel, Deputy Chief Executive Officer, Minerals Council of Australia, *Proof Committee Hansard*, p. 24.

better placed than Treasury to provide advice on the costs of administering the MRRT.²⁴

2.34 Treasury also acknowledged, both at the hearing and in the Explanatory Memorandum, that far more companies need to comply with the MRRT than have actually had to pay the tax to date. Specifically, the Explanatory Memorandum confirmed that there are approximately 235 companies registered for the MRRT, and 65 more are due to register should the repeal of the MRRT not proceed. However, fewer than 20 companies had actually incurred an MRRT liability in 2012–13.²⁵

2.35 AMEC was particularly critical of what it regarded as the MRRT's bias against mining projects that were new or in relatively early stages of development. This bias, AMEC explained, resulted from the ability of established miners to apply the market value method to their depreciable starting base assets (that is, to use the market valuation of a mine as at 1 May 2010, just prior to the announcement of the RSPT), an option that in effect is not open to small and emerging miners:

Small, emerging miners are not able to claim such an extensive tax shield and therefore their unit cost of production and ultimate effective tax rate is detrimentally affected. So as much as you can be designing a tax with all the correct aspects incorporated in event, such as the asset base, it has a serious distortion effect and it is this distortion effect that has discriminated against, in particular, the mid-tier producers.²⁶

2.36 A number of witnesses also indicated that the MRRT had undermined the capacity of the Australian mining industry to attract much-needed investment.

2.37 In response to questions from the committee, FMG advised that it would have struggled to grow into the company it now was had it needed to contend with the MRRT when the company was getting started. In particular, FMG suggested it would have struggled to attract investors had the MRRT been in place at that time.²⁷

2.38 Atlas Iron provided a concrete example of the impact of the MRRT, suggesting that:

...the introduction of the MRRT substantially delayed the process of marketing our Ridley magnetite project to foreign investors as it created a further layer of cost and uncertainty over such projects which are already considered risky by virtue of their capital requirement.²⁸

24 Mr Robert Heferen, Executive Director Revenue Group, Treasury, *Proof Committee Hansard*, p. 33.

25 Explanatory Memorandum, pp. 53–54.

26 Mr Simon Bennison, Chief Executive Officer, Association of Mining and Exploration Companies, *Proof Committee Hansard*, p. 25.

27 Mr Marcus Hughes, Group Tax Manager, Fortescue Metals Group, *Proof Committee Hansard*, p. 30.

28 Atlas Iron, *Submission 16*, pp. 1–2.

2.39 Asked about the impact of the MRRT on foreign investment and growth in the mining industry, the ACCI responded that:

...the debate around the measure and the high level of questioning within the public and economic community about the measure and its iterations did contribute and was one of the elements that contributed to a reduction in business confidence, and business confidence includes investment confidence.²⁹

2.40 The MCA, meanwhile, suggested that while the impact of the MRRT itself on investment was difficult to assess, there 'is also an important point to be made that, particularly for some of the smaller players in the coal and iron-ore area, the debate in 2010 created particular difficulties in accessing capital.³⁰

2.41 Expanding on this point, the MCA told the committee:

I think there is a sense, though, in which the 2010 tax debate, as I said, casts a pall over Australia's investment reputation. You have seen that, for example, in some of the surveys done by the Canadian Fraser Institute, where the state jurisdictions of Australia invariably all sat within the top 20 of roughly 60 or 70 global jurisdictions. And even today they have moved to about the middle of the pack. So we have not actually seen any real recovery in terms of the investment standing of Australian jurisdictions based on that annual Fraser Institute survey. So I think there has clearly been an impact. Again, without commenting on particular examples, I am sure there are companies that have looked elsewhere based on the uncertainty that has existed in Australia's tax system over the last few years.³¹

2.42 Mr Michael Young, Non-Executive Director of BC Iron, provided the committee with anecdotal evidence illustrating the impact the debate over the proposed RSPT, and the subsequent introduction of the MRRT, had had on perceptions of Australia as a foreign investment destination. Conversely, this evidence also touched on the reaction of foreign investors to the proposed repeal of the MRRT:

When the RSPT was announced in 2010, in June of that year we travelled to New York, London and Toronto to raise money for BC Iron as we were in pre-development stages. I got some comments from one particular fund manager in New York who would not allow me to identify him. He runs a \$6 billion fund. They had several investments in Australian companies with assets in Australia. His comments were quite colourful, so I will not repeat them. He basically said: 'What the heck are you guys doing? You've just

29 Mr Peter Anderson, Chief Executive, Australian Chamber of Commerce and Industry, *Proof Committee Hansard*, p. 11.

30 Dr John Kunkel, Deputy Chief Executive Officer, Minerals Council of Australia, *Proof Committee Hansard*, p. 21.

31 Dr John Kunkel, Deputy Chief Executive Officer, Minerals Council of Australia, *Proof Committee Hansard*, p. 24.

come through the GFC and now you have introduced this tax. We don't understand it, but we've put a hold on Australia investment.' I want to reiterate that: his company with a \$6 billion fund and put a hold on investments in Australian companies in Australia. I had not heard from the guy again until last week. He called me last week, post election, and said, 'It looks like you guys are open for business again' and we had a long chat about investment in our company. I am now chairman of a uranium company as well in Australia. That sentiment was repeated over and over again, and I know of several companies.³²

2.43 Mr Young added that 'the investment community was basically shut down because of the uncertainty around the tax and it is really the uncertainty of that tax that created the issue.' Clarifying this point, Mr Young suggested that the MRRT was in fact only the 'tip of the iceberg,' and the problem was that it had created a perception (rightly or wrongly) that the then government was anti-mining, and this perception was in turn reinforced by a range of issues, such as the carbon tax.³³

2.44 Mr Young told the committee that the MRRT had, in fact, created perceptions of sovereign risk with respect to foreign investment in Australian mining projects. While acknowledging that some of the rhetoric was 'pretty thick' (particularly the comparisons of Australia to African nations), it was nonetheless the case that, for investors, 'perception is indeed reality'.³⁴

2.45 AMEC told the committee that the MRRT has impacted on investor confidence and business certainty in such a way as to detrimentally affect 'the risk profile of small Australian iron ore and coal miners and junior exploration companies, making raising equity and debt capital extremely difficult over the past three years.'³⁵

2.46 AMEC further suggested that the share of exploration funds raised on the ASX that went toward domestic mining projects had decreased significantly as a result of the MRRT, and the number of Initial Public Offerings (IPOs) of metals and mining companies had fallen.³⁶ To support this point, AMEC provided two graphs to the committee, reproduced below as Tables 3 and 4.

32 Mr Michael Young, Non-Executive Director, BC Iron Limited, *Proof Committee Hansard*, p. 28.

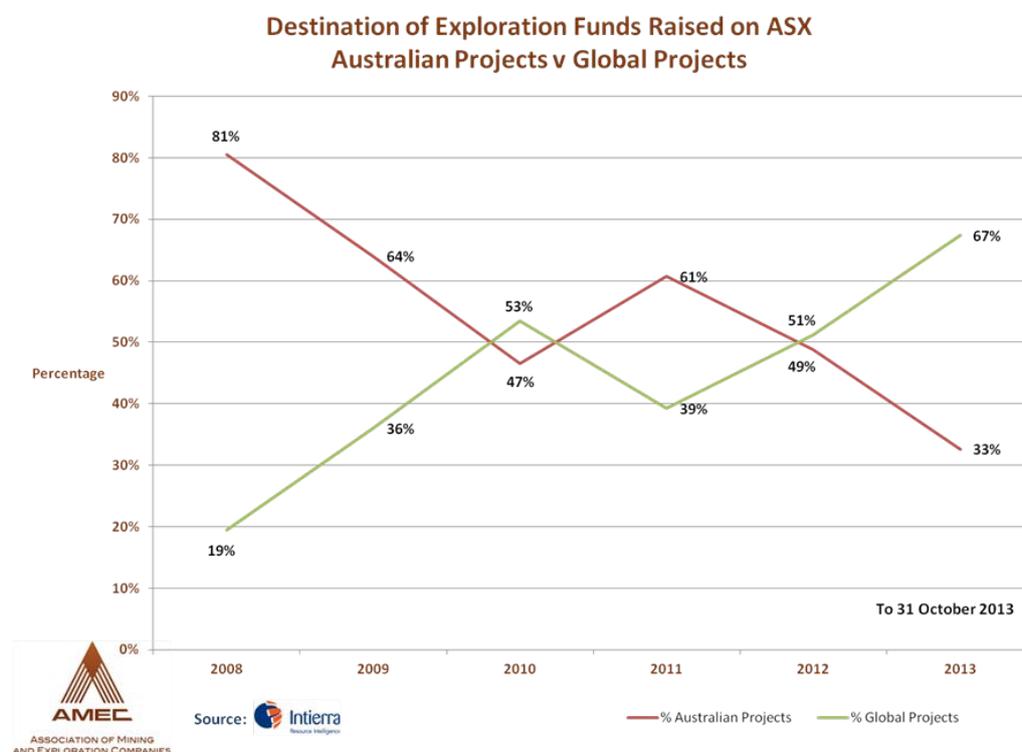
33 Mr Michael Young, Non-Executive Director, BC Iron Limited, *Proof Committee Hansard*, pp. 28–29.

34 Mr Michael Young, Non-Executive Director, BC Iron Limited, *Proof Committee Hansard*, p. 29.

35 Mr Simon Bennison, Chief Executive Officer, Association of Mining and Exploration Companies, *Proof Committee Hansard*, p. 25.

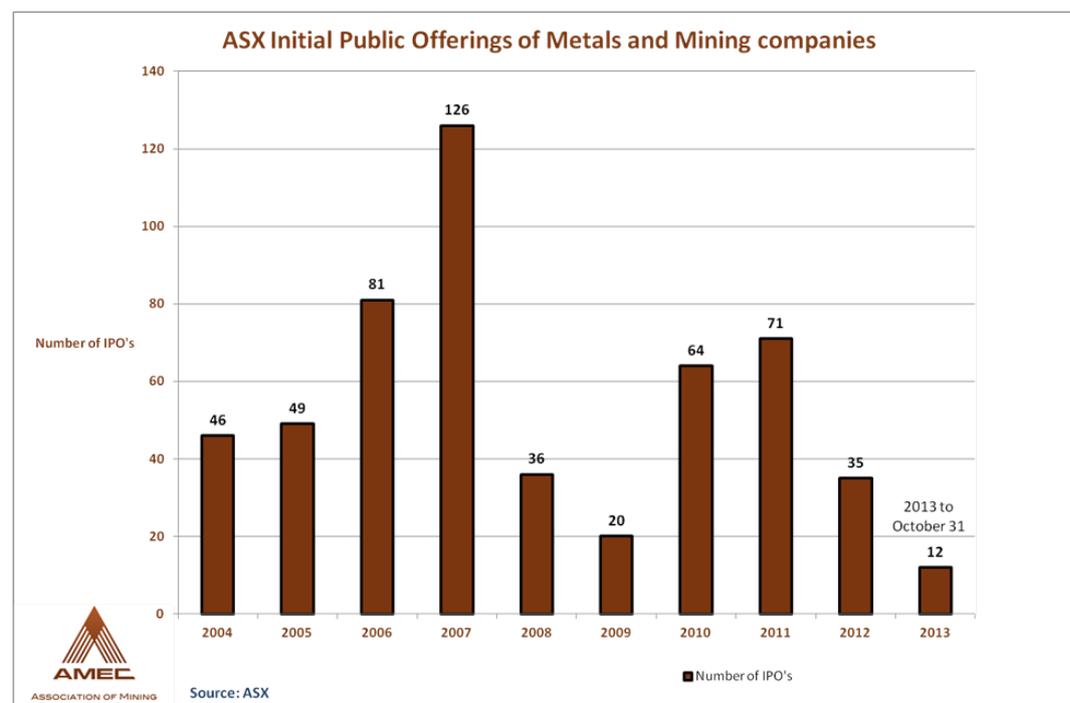
36 Mr Simon Bennison, Chief Executive Officer, Association of Mining and Exploration Companies, *Proof Committee Hansard*, p. 26.

Table 3: Destination of Exploration Funds Raised on ASX – Australian Projects v Global Projects



Source: Association of Mining and Exploration Companies, Additional Information, p. 5.

Table 4: ASX Initial Public Offerings of Metals and Mining Companies



Source: Association of Mining and Exploration Companies, Additional Information, p. 5.

2.47 AMEC concluded that:

... the implementation of the repeal of the MRRT combined with other initiatives contained in the coalition government's various policy documents will provide much needed stimulus to the Australian mining industry. These actions will help restore industry and investor confidence which are essential to growth and productivity and the creation of jobs in Australia.³⁷

2.48 Similarly, the MCA argued that the repeal of the MRRT would improve confidence in the mining industry and signal that Australia remained an attractive investment destination:

Repeal of the MRRT will help to restore industry confidence, remove an additional layer of tax on coal and iron ore projects, reduce compliance costs and improve the simplicity of the tax system. Repeal of the MRRT will send a powerful signal that Australia is determined to remain a world-leading destination for new investment and production.³⁸

2.49 The MCA argued that given the challenges currently facing the mining industry—including lower commodity prices, high production costs and growing sources of supply competition—it is now 'time to begin a new conversation about how Australia regains its competitiveness and wins its share of future minerals resource investment.'³⁹

Schedule 2: Loss carry-back

2.50 The ACTU argued strongly in favour of retaining the loss carry-back regime, and noted that it had in fact been involved in the design of the regime as a member of the Business Tax Working Group:

This was an important measure that ended the asymmetric treatment of tax losses. It was an important reform, particularly for small and medium sized businesses, especially in circumstances of an economic downturn. The Business Tax Working Group, which was made up of business groups, myself, academics and tax professionals, had a fair bit of difficulty agreeing on a lot of things but we did manage to agree on this as an important reform. It was a good thing the former government took it up. It is good for [small and medium enterprises] and it should be retained for the future.⁴⁰

37 Mr Simon Bennison, Chief Executive Officer, Association of Mining and Exploration Companies, *Proof Committee Hansard*, p. 26.

38 Dr John Kunkel, Deputy Chief Executive Officer, Minerals Council of Australia, *Proof Committee Hansard*, p. 20.

39 Dr John Kunkel, Deputy Chief Executive Officer, Minerals Council of Australia, *Proof Committee Hansard*, p. 20.

40 Mr Tim Lyons, Assistant Secretary, Australian Council of Trade Unions, *Proof Committee Hansard*, p. 4.

2.51 The ACTU concluded that the repeal of the loss carry-back regime would mean that more businesses would fail over the economic cycle, and this would in turn impact on employment.⁴¹

2.52 The CFMEU, meanwhile, expressed disappointment at the proposed repeal of the loss carry-back regime, which it suggested could 'help a firm survive a tough year or two'.⁴²

2.53 The Ai Group indicated that it did not support the repeal of the loss carry-back regime, which it regarded as a useful (if limited) step towards addressing the asymmetrical treatment of tax losses in Australia.⁴³

2.54 Expanding on this point, the Ai Group told the committee:

There are two benefits for the loss carryback. At present, a company in a loss-making year does not pay tax, nor is it entitled to a tax refund, even though when it makes a profit it pays a tax in the year that it makes the profit. It is entitled to claim that loss later on—when it next makes a profit it can claim that loss back against that profit in a subsequent year. However, waiting for that is recognised as a cost on business, across the globe. Most countries have loss carryback or other provisions that deal with this asymmetrical treatment of losses. Businesses making a loss need cash now. Rather than having a contingent asset on their books, if you like—that is, an ability to claim money when they are making money—loss carryback would be much better for them and for their businesses, and would reduce the business closure and so on that results when businesses go through this cash flow crisis in a year they make a loss. Symmetrical treatment of tax losses would alleviate that quite considerably. The present law gives them access on a limited basis to some of the tax they paid in the previous year, in the year they make a loss. This provides a very important boost to their cash flow at a time when they need it most and at a time when it is going to be most critical in ensuring the survival of that business.⁴⁴

Schedules 3 and 4: Capital allowances for small business entities

2.55 The Real Estate Institute of Australia suggested that the proposed changes to small business capital allowances, along with the changes to the loss carry-back regime, would:

...have a major detrimental impact on real estate agencies, their employees and, in general, all small businesses. For real estate agencies cars are a

41 Mr Tim Lyons, Assistant Secretary, Australian Council of Trade Unions, *Proof Committee Hansard*, p. 4.

42 Construction, Forestry, Mining and Energy Union, *Submission 3*, p. 6.

43 Ai Group, *Submission 22*, p. 2

44 Dr Peter Burn, Director, Public Policy, Australian Industry Group, *Proof Committee Hansard*, p. 10.

major part of conducting business and the asset base. The proposed repeal of the accelerated depreciation provisions will see a reduction in cash flow and a reduced turnover in motor vehicles with the consequent impacts on the local vehicle industry. The consequences on the turnover of computers and other office equipment will be similar.⁴⁵

2.56 Ai Group argued that the question regarding the measures was not whether deductions could be claimed or not, but when they could be deducted. As such, the issue was essentially one of timing, and the 'revenue estimates presented across the forward estimates grossly overstate the net present value of these measures to the Commonwealth.'⁴⁶

2.57 Ai Group outlined the benefits of the higher instant asset write-off threshold in its appearance before the committee:

It increases cash flow so that, instead of waiting over the life of the asset to recover its nominal value as a tax deduction, with a \$6,500 threshold you can claim a very large proportion of it in the year that it is made. So this boosts cash flow. It changes quite drastically the net present value calculations of any particular investment because it boosts their cash flow. Of course it reduces cash flow in subsequent years, because it is, after all, only a bring-forward of the depreciation deductions.

The second element—and in some ways more important, particularly for the small businesses to which it applies—is that the recordkeeping is very much reduced. Everyone who has been a small business person knows what a hassle it is to trace, over the life of an asset, the deductions that have been made in previous years and the statutory accelerated depreciation rates and to make small deductions over a number of years. Making a single big deduction in the year that it is purchased is simple. It relieves business of all the paperwork, it reduces the costs they have to pay to their accountants and it gives them more time in their businesses—less money to the accountants and more money for reinvestment.⁴⁷

2.58 Ai Group conceded that consideration of the capital allowances for small business could be considered as a part of the government's tax review, but maintained that:

...right now the Australian economy faces a large gap in investment, particularly outside the mining sector. This is an issue that the Reserve Bank, for example, has been raising. It is an issue that the Commonwealth Treasury has been raising. The proposal to remove the instant write-off facility for small business will have a material impact on them and will decrease investment at the time it is needed most. Waiting for the tax

45 Real Estate Institute of Australia, *Submission 4*, p. 2.

46 Dr Peter Burn, Director, Public Policy, Australian Industry Group, *Proof Committee Hansard*, p. 9.

47 Dr Peter Burn, Director, Public Policy, Australian Industry Group, *Proof Committee Hansard*, p. 12.

review in these cases is poor timing. We need this investment now because mining investment is coming off and there is no adequate pick-up in investment across the board. It is in fact a timing measure and the timing need is right now.⁴⁸

2.59 However, while opposed to the reduction in the threshold available under the small business asset write-off regime, the Ai Group supported the repeal of the accelerated depreciation arrangements for motor vehicles used by small business. It argued that these arrangements distort 'small business's investment decisions in favour of expenditure on motor vehicles relate to expenditure on other, and in many cases, more productive assets.'⁴⁹

Schedule 5: Geothermal expenditure deduction

2.60 The Australia Institute argued against the repeal of the geothermal expenditure deduction, on the basis that if the repeal proceeded 'geothermal exploration will not have the same incentives as any ordinary explorer looking for fossil fuels will get.' It added that, given the potential of geothermal as a renewable energy source, 'if anything the playing field should be tilted in [its] favour'.⁵⁰

2.61 The Ai Group, however, suggested that geothermal exploration deduction would be best considered in the context of the government's general tax review.⁵¹

Schedule 6: Rephasing the Superannuation Guarantee Charge percentage

2.62 While most of the superannuation groups the committee heard from opposed the rephasing of the increase in the SG rate, a number also expressed support for the government's commitment to increase the rate to 12 per cent (albeit on a delayed schedule).

2.63 The ACCI and Ai Group, by contrast, supported the pause in the SG rate increase, and more broadly made the case against the eventual increase in the rate to 12 per cent.

2.64 The ACTU expressed its opposition to the rephasing, suggesting that it was 'a long awaited measure which had already been factored into wage and salary negotiations.'⁵²

48 Dr Peter Burn, Director, Public Policy, Australian Industry Group, *Proof Committee Hansard*, p. 10.

49 Ai Group, *Submission 22*, p. 3.

50 The Australia Institute, *Submission 15*, p. 15.

51 Ai Group, *Submission 22*, p. 3.

52 Mr Tim Lyons, Assistant Secretary, Australian Council of Trade Unions, *Proof Committee Hansard*, p. 4.

2.65 The Financial Planning Association of Australia (FPA) opposed the rephrasing, underlining the need to boost the currently inadequate levels of Australian retirement savings. The FPA added that given the importance of the increase in the SG rate, it should not be tied to the MRRT.⁵³ Similar arguments were made by Industry Super Australia (ISA).⁵⁴

2.66 The Association of Superannuation Funds of Australia (ASFA) argued that the increase in the SG rate 'unequivocally will assist future retirement incomes while having only a relative minor impact on take home pay.'⁵⁵

2.67 Mercer suggested that, in addition to reducing retirement incomes of future retirees and increasing pressure on the future cost of funding the Age Pension, the delay in the SG rate increase could 'result in practical difficulties for employers.' Specifically, Mercer noted that many employers would have already modified their payroll systems to allow for the increase in the SG rate from 1 July 2014, and have budgeted for the increase in remuneration. Mercer argued that employers should be allowed to know the SG rate at least 12 months before the start of the financial year:

In other words, if the SG charge percentage is to be paused at 9.25 percent for two years commencing 1 July 2014, then this should have been enshrined in legislation no later than 30 June 2013. Obviously this is not possible however employers still need to be given a reasonable period of notice. As an absolute minimum, we consider employers need at least a period of three months between the passage of any legislation through both Houses of Parliament and the effective date of the pause. Hence, if the legislation is not passed by 31 March 2014, the pause should be deferred until 1 July 2015 with a 9.5% rate applicable from 1 July 2014 to 30 June 2017. Whilst this might alleviate some of the administrative issues for employers, it may not be enough to remove the potential for industrial action by employees/unions seeking compensation through additional salary remuneration

2.68 Mercer also suggested that the changes could 'potentially result in industrial action by employees who consider they have been disadvantaged by accepting lower salary increases determined after taking the already legislated SG increases into account.'⁵⁶

2.69 While acknowledging the government's election commitment to rephrase the increase in the SG rate, and welcoming the government's commitment to increase the rate to 12 per cent, the FSC nonetheless expressed its view that the 'proposed delay

53 Financial Planning Association of Australia, *Submission 6*, pp. 2–4.

54 Industry Super Australia, *Submission 19*, p. 1.

55 ASFA, *Submission 11*, p. 2.

56 Mercer, *Submission 8*, pp. 2–3.

undermines the policy rationale underpinning increasing the SGC to 12 per cent to minimise the expected cost of the aging population to the government.⁵⁷

2.70 AIST, meanwhile, reluctantly accepted the need to delay the increase in the SG rate, and indicated that it was 'encouraged that this increase is to eventually proceed'.⁵⁸

2.71 The ACCI indicated that it supported the pause in the increase in the SG rate, and more broadly opposed the proposed increase to 12 per cent. It argued that, once fully implemented, the measure would increase costs for business by at least \$20 billion in today's dollars. According to the ACCI, this would represent 'a significant new cost burden for industry for which no offset has been provided in our industrial relations frameworks'.⁵⁹ The ACCI also suggested the former government had implied that taxpayers would fund the phased increase in the SG rate, when in reality it is Australian businesses that are required to pay the additional superannuation liability associated with the increase. The ACCI explained:

A budget impact from the increase in the [Superannuation Guarantee Levy] only arises because superannuation contributions are taxed at a lower rate relative to income and higher levy would lead to a higher level of superannuation contributions and lower level of income over the forward estimates period.⁶⁰

2.72 The ACCI stressed the need for the Bill to be enacted prior to 1 July 2014, given the timing of the next phased increase in the SG rate.⁶¹

2.73 While Ai Group acknowledged the inadequacy of retirement incomes for many people, it indicated that it did not support the phased increase in the SG rate, and supported the proposed pause. In its submission, Ai Group wrote that it:

...favours a more considered approach to examining the case for improving the adequacy of superannuation arrangements and the alternative means of doing so. This should be considered in the context of the government's review of taxation.⁶²

Schedule 7: Repeal of the low income superannuation contribution

2.74 Superannuation groups that provided evidence to the committee were broadly united in opposing the repeal of the LISC. These groups were particularly concerned that the repeal of the LISC would remove any concession low-income earners

57 Financial Services Council, *Submission 9*, p. 4.

58 Australian Institute of Superannuation Trustees, *Submission 12*, p. 1.

59 Australian Chamber of Commerce and Industry, *Submission 18*, p. 1.

60 Australian Chamber of Commerce and Industry, *Submission 18*, p. 1.

61 Australian Chamber of Commerce and Industry, *Submission 18*, p. 2.

62 Ai Group, *Submission 22*, pp. 3–4.

received on their superannuation contributions, as the 15 per cent flat rate on superannuation contributions was higher than the rate they paid on their take-home income.

2.75 ISA argued in its submission that the LISC is:

...integral to the compact whereby the Government offers compensation to individuals, by way of tax concession, for their deferral of consumption cause by the SG. Arguable the deferral of consumption for low income earners is felt most acutely due to their budget constraints – making the LISC a particularly important measure in the system.⁶³

2.76 The FPA expressed concern that 'repealing the Low Income Superannuation Contribution will disproportionately affect already disadvantaged members of Australian society, and dissuade low income earners from engaging with their superannuation.'⁶⁴

2.77 The FPA added that the repeal of the LISC would:

...disincentivise low income earners from engaging with their superannuation, and effectively return Australia to a flat tax on superannuation contributions. As such, the LISC represents a significant structural change to superannuation in Australia, and repealing it will negatively impact on Australian society and the Federal budget in the long term.⁶⁵

2.78 Mercer also suggested that the repeal of the LISC would remove a measure that addressed the 'inequity whereby low income earners effectively receive very limited or no income tax concessions on their SG contributions,' and where, 'in fact, in many cases, superannuation contributions are taxed more heavily than normal income.'⁶⁶

2.79 ACOSS suggested that the LISC was the minimum needed to ensure some equity in the way the superannuation contributions of low income earners were taxed:

In a fairer superannuation system they would actually receive a positive incentive for their compulsory saving rather than what is, in effect, a zero incentive. This is the case with the contribution in place, but at least they are not been penalised 15c in the dollar. We believe that in the end, those super contributions are coming out of wages, so it is not worthwhile for people on the lowest incomes to be compelled to save if they have that

63 Industry Super Australia, *Submission 19*, p. 3.

64 Financial Planning Association of Australia, *Submission 6*, p. 1.

65 Financial Planning Association of Australia, *Submission 6*, pp. 1–2.

66 Mercer, *Submission 8*, p. 3.

penalty of 15c in the dollar for doing so. It is not fair to compel people to save and then penalise them in that way.⁶⁷

2.80 ACOSS told the committee that the LISC was:

...a small step towards a fairer super system. The present system penalises those on the lowest incomes, the majority of whom are women, for saving and gives those on high incomes twice the subsidy paid to middle-income earners. So the tax system for super contributions is upside-down. Ideally, the Henry report reforms would be implemented whereby the flat 15 per cent tax on employer contributions is replaced by taxation at marginal rates offset by a rebate. Still, the contribution is a good start. It means the tax break for people earning less than \$37,000 a year is increased from minus 15 per cent to zero. That is not fantastic, but it is a good start, and we think it should be retained.⁶⁸

2.81 ACOSS contrasted the level of concession given to low income earners for their superannuation contributions with the substantial discount received by income earners on the highest tax rates:

The low-income earner is, without the contribution, losing 15 per cent. The tax break for those on over \$180,000 a year is 33c in the dollar or so. The tax break per dollar contributed for the bottom end without this measure is minus 15c, with this measure zero. So the system is still skewed to the top end, it is still inequitable. Apart from the extra 15 per cent tax for a very small proportion of people earning over \$300,000, which we believe should be kept, the system is massively skewed towards higher income earners who are unlikely to rely on the age pension in any event. They are likely to save without the incentive in any event. There is really no good reason in public policy to offer that level of subsidy to those people, and certainly no good public policy reason to penalise those at the bottom end for compulsory saving.⁶⁹

2.82 The ACTU picked up on this point, arguing that the repeal of the LISC would, in effect:

...leave those earning less than \$37,000 per year as the only Australian wage and salary earners who do not receive a concessional treatment of their superannuation contributions. Everybody else in the economy except these low income workers would receive some measure of tax break, and as

67 Mr Peter Davidson, Senior Advisor, Australian Council of Social Service, *Proof Committee Hansard*, p. 5.

68 Mr Peter Davidson, Senior Advisor, Australian Council of Social Service, *Proof Committee Hansard*, p. 2.

69 Mr Peter Davidson, Senior Advisor, Australian Council of Social Service, *Proof Committee Hansard*, p. 5.

Mr Davidson has pointed out, at the top end there are very significant concessions.⁷⁰

2.83 The ACTU also pointed to Treasury analysis that showed how in 2009–10 the top decile of income earners received 38.2 per cent of all superannuation tax concessions, which was more than the share of the bottom 70 per cent of income earners combined. It described this situation as 'grossly inequitable.'⁷¹

2.84 Similarly, the ACTU argued the repeal of the LISC would:

...restore the position where large numbers of low-income Australians pay more tax on their superannuation than they pay on their take-home pay. That is an absurd proposition for money which is compulsory and preserved and in contrast to the enormous tax concessions given to high-income earners.⁷²

2.85 In its submission, the Financial Services Council (FSC) wrote that it was 'a long-standing flaw in the superannuation system that low-income earners would pay a higher rate of tax on their compulsory contributions than they would if that money was paid to them as income.'⁷³ The FSC recommended that rather of repealing the LISC, the government 'instead "pause" the policy by amending the date from which fund members can accrue an entitlement to a LISC payment to 1 July 2017 to allow the Budget position to first strengthen.'⁷⁴

2.86 A number of witnesses, including Women in Super, the ACTU, FPA, FSC and ISA, expressed particular concern about the impact the abolition of the LISC would have on women, who constituted 2.1 million of the LISC's 3.6 million recipients.⁷⁵ As ISA explained to the committee:

As others identified and as we identified in our submission, about two-thirds of those affected are women. We think that the LISC has been the single most important policy setting in the super system which helps to address the inequity in savings gap whereby women are currently retiring

70 Mr Tim Lyons, Assistant Secretary, Australian Council of Trade Unions, *Proof Committee Hansard*, p. 5.

71 Mr Matt Cowgill, Economic Policy Officer, Australian Council of Trade Unions, *Proof Committee Hansard*, p. 5.

72 Mr Tim Lyons, Assistant Secretary, Australian Council of Trade Unions, *Proof Committee Hansard*, p. 4.

73 Financial Services Council, *Submission 9*, p. 2.

74 Financial Services Council, *Submission 9*, p. 2.

75 Mr Tim Lyons, Assistant Secretary, Australian Council of Trade Unions, *Proof Committee Hansard*, p. 4;

with about 40 per cent less than men, which is significant given that their longevity is greater.⁷⁶

2.87 ISA added that many of these women eligible for the LISC were, in fact, second-income earners in family households.⁷⁷

2.88 ISA also suggested that the full benefits of the government's proposed Paid Parental Leave scheme, wherein women would receive superannuation payments while on paid maternity leave, would:

...only be realised if the low-income super contribution remains in place alongside it. If there are to be any changes to the paid parental leave scheme, as it progresses through the parliament, then any savings could be directed to retaining the LISC. In relation to that, I would draw attention to our submission, where we have made the point that under the paid parental scheme our analysis in the submission, which is at Table E, shows that there will be very significant offsets between the paid parental leave scheme and the low-income super contribution, such that the repeal of the LISC will wipe out the very worthy benefits of the proposed PPL scheme by a factor of two-thirds, and, in some instances, almost twice over.⁷⁸

2.89 Women in Super argued that the LISC, along with the phased increase in the SG rate, would help address the gender gap in superannuation savings:

We see the increase in the superannuation guarantee from nine to 12 per cent and the low-income superannuation contribution as crucial policies to deliver adequacy in retirement and to take the pressure off future taxpayers. These measures are doubly important for women who currently have such a marked superannuation savings gap. The LISC is not simply a mechanism to increase superannuation savings; it is fundamental to the equity of the taxation treatment of compulsory superannuation savings.⁷⁹

2.90 The AIST also told the committee that the LISC supported workforce participation, particularly in terms of individuals in part-time work and low-income earners.⁸⁰

76 Ms Robbie Campo, Deputy Chief Executive, Industry Super Australia, *Proof Committee Hansard*, p. 14.

77 Ms Robbie Campo, Deputy Chief Executive, Industry Super Australia, *Proof Committee Hansard*, p. 14.

78 Mr Matthew Linden, Director, Government Relations, Industry Super Australia, *Proof Committee Hansard*, pp. 16–17.

79 Ms Catherine Wood, National Chair and Spokesperson, Women in Super, *Proof Committee Hansard*, pp. 15–16.

80 Mr David Haynes, Executive Manager, Policy and Research, Australian Institute of Superannuation Trustees, *Proof Committee Hansard*, p. 15.

2.91 In addition to emphasising the disproportionate impact of the repeal of the LISC on women, ISA also suggested it would have a disproportionate impact of Australians in rural and regional areas.⁸¹

2.92 ASFA acknowledged the budgetary constraints facing the government, and indicated it was:

...very willing to have a discussion with Treasury and the government about ways in which the low-income superannuation contribution may be funded. Certainly we say that its permanent abolition is not justified. Already superannuation has done some very heavy lifting in terms of budget measures. The amount of additional revenue taken out of super over the last few budgets has been very considerable, and the super co-contribution, when it was last phased back on a permanent basis was put in the context that that was an acceptable measure given that the low-income superannuation contribution was being introduced.⁸²

2.93 Similarly, ISA indicated that it was:

...would be only too happy to work with the committee, the Senate and the government in trying to find alternatives to this. It is about choices. We think it would be a bad choice to remove this integral part of the system. We have put forward potential alternative savings which would enable the LISC to continue without detracting from the government's budget objectives.⁸³

2.94 In contrast to the arguments from the superannuation industry, Ai Group suggested that the LISC was a 'patchwork' solution to addressing the problem of low income earners paying higher tax on their superannuation contributions that if they were to take the contributions as wages:

Ai Group supports a more substantial response to this policy issue which should also be considered in the context of the Government's tax review.⁸⁴

2.95 Treasury also reiterated that the government had committed to revisiting concessions for lower income earners when 'the budget returns to a strong surplus,' and stated that 'there is an acknowledgement that further work needs to be done when there is capacity.'⁸⁵

81 Mr Matthew Linden, Director, Government Relations, Industry Super Australia, *Proof Committee Hansard*, p. 19.

82 Mr Ross Clare, Director, Research, Association of Superannuation Funds of Australia, *Proof Committee Hansard*, p. 15.

83 Mr Matthew Linden, Director, Government Relations, Industry Super Australia, *Proof Committee Hansard*, p. 19.

84 Ai Group, *Submission 22*, p. 4.

85 Ms Ruth Gabbitas, Manager Contributions and Accumulations Units, Treasury, *Proof Committee Hansard*, p. 37.

Concerns regarding the retrospective application of the LISC repeal

2.96 A number of witnesses, including Mercer, FSC and ISA, expressed concern about the apparent retrospective application of the repeal of the LISC.⁸⁶ As Mercer explained in its submission:

Removing the LISC for contributions made from 1 July 2013 is effectively an adverse retrospective amendment to existing legislation. Part of the LISC for the 2013–14 year has already 'accrued' in respect of contributions already made in the period from 1 July 2013.

Making retrospective amendments is not appropriate policy and will further diminish confidence in the system.⁸⁷

2.97 With respect to concerns expressed about the 'retrospective' application of the LISC, Treasury told the committee:

The term 'retrospectivity' is bandied around in a number of ways. At a very strict reading one could argue that anything that takes effect before the particular piece of legislation receives royal assent could be considered to be retrospective. There are other arguments saying that anything that takes effect before the date of announcement could be considered retrospective. I must say, in the tax world that is probably more the working definition of 'retrospective', even though the legal purists would argue that it falls short and you should still go to royal assent. But if we take the working definition for tax—that is, it retrospectively takes effect an income year before the date of announcement, and I think in this case the announcement that the low-income super contribution would be repealed along with the repeal of the MRRT—that I guess has been a proposition that has been in place for quite a period of time. So from that point of view one can mount the argument that it is certainly not retrospective.⁸⁸

Schedules 8 and 9: Repeal of income support bonus and schoolkids bonus

2.98 Welfare groups and unions argued that the repeal of the income support bonus (schedule 8) and the schoolkids bonus (schedule 9) would hurt welfare recipients and low and middle income families. Other witnesses, however, acknowledged that the poor state of the budget and the failure of the MRRT to raise any significant revenue made these measures difficult to afford.

2.99 ACOSS told the committee that the income support bonus, which was worth about \$4 per week to recipients, was in effect the first increase to the Newstart Allowance and other allowance payments in two decades. As such, according to

86 Mercer, *Submission 8*; Financial Services Council, *Submission 9*, p. 3; Mr Matthew Linden, Director, Government Relations, Industry Super Australia, *Proof Committee Hansard*, p. 18.

87 Mercer, *Submission 8*, p. 3.

88 Mr Robert Heferen, Executive Director Revenue Group, Treasury, *Proof Committee Hansard*, p. 41.

ACOSS, its abolition would have a 'very detrimental effect' on the poorest households in Australia.⁸⁹

2.100 With respect to the schoolkids bonus, ACOSS told the committee that while it believed the bonus needed to be better targeted to families most in need, it nonetheless opposed the abolition of the payment without it being replaced by an alternative support.⁹⁰

2.101 ACOSS added that:

...the link between the schoolkids bonus and the mining tax we believe is more tenuous than some of the other measures being considered today. In terms of the background of the schoolkids bonus, it replaced the education tax refund payment, which cost approximately two-thirds of the cost of the schoolkids bonus. The mining tax, theoretically, only paid for a third of the cost of the schoolkids bonus not the full amount. Should the abolition of the mining tax proceed that should not be used to justify the abolition of 100 per cent of the schoolkids bonus payment.⁹¹

2.102 The SDA argued for the retention of the income support bonus and the schoolkids bonus, emphasizing the importance of such payments for low income families. It suggested that 'should the government proceed with the repeal of the Income support bonus and/or the Schoolkids bonus then the government should commit to returning the money low income Australian families will lose to them in the form of real increases in family payments.'⁹²

2.103 The committee also received submissions from Ms Georgina Cross and the Welfare Rights Network Australia which argued in favour of retaining these support payments.⁹³

2.104 As noted earlier in this chapter, ACOSS told the committee that the future of support payments such as the income support bonus and schoolkids bonus should not be linked to the MRRT. ACOSS further noted that it has identified other potential savings measures that could be used to fund the payments:

Although we believe these measures are linked in time, we believe that they otherwise have no necessary connection with each other and we oppose the passage of the bill. While we support firm action to restore the budget to structural balance, we believe each measure should be considered

89 Ms Jacqui Phillips, Director of Policy and Campaigns, Australian Council of Social Service, *Proof Committee Hansard*, pp. 1–2.

90 Ms Jacqui Phillips, Director of Policy and Campaigns, Australian Council of Social Service, *Proof Committee Hansard*, p. 2.

91 Ms Jacqui Phillips, Director of Policy and Campaigns, Australian Council of Social Service, *Proof Committee Hansard*, p. 2.

92 Shop, Distributive and Allied Employees' Association, *Submission 5*, p. 2.

93 Ms Georgina Cross, *Submission 20*; National Welfare Rights Network, *Submission 24*.

separately on its merits. Our commission of audit submission details a range of direct and tax expenditure savings and revenue measures, which we believe could achieve savings more efficiently and fairly than this bill would.⁹⁴

2.105 Other witnesses, however, acknowledged that the pressure on the budget, and the failure of the MRRT to raise significant revenue, made such decisions unavoidable. For instance, the Ai Group indicated that it supported the repeal of the low income support bonus and Schoolkids Bonus, as these payments 'amount to a redistribution of \$5.7 billion over the forward estimates from an anticipated revenue source that has not materialised.'⁹⁵

2.106 In response to questions from the committee, Treasury indicated that if the Bill did not pass by 31 December 2013, then the savings from the schoolkids bonus element of the package would be reduced by \$727.9 million in underlying cash terms. Treasury also indicated this would have a public debt interest cost over the forward estimates.

2.107 During the hearing, Treasury confirmed that the Minister for Finance, Senator the Hon Penny Wong, had indicated that the mining tax would be used to fund the schoolkids bonus.⁹⁶

Committee view

2.108 The committee views the Bill as an appropriate and necessary response to the difficult budgetary situation confronting the government.

2.109 Prior to this inquiry, it had already been well established that the Minerals Resource Rent Tax is a poorly designed tax, that imposes a significant compliance and administrative burden on mining companies and damages Australia's competitiveness. During the inquiry, the committee received clear and compelling evidence from industry participants and peak bodies that the tax continues to have a detrimental impact on the Australian resources sector and the Australian economy more broadly.

2.110 Similarly, the failure of the Minerals Resource Rent Tax to raise any significant revenue, and in particular its failure to raise the levels of revenue projected by the former government, was already well known prior to this inquiry. This failure underlines the need to repeal or revise measures that the tax was intended to fund.

2.111 The committee acknowledges that some of the MRRT-related expenditure measures that are repealed or revised by the Bill are worthy in nature. However, these

94 Ms Jacqui Phillips, Director of Policy and Campaigns, Australian Council of Social Service, *Proof Committee Hansard*, p. 1.

95 Ai Group, *Submission 22*, p. 4.

96 Mr Robert Heferen, Executive Director Revenue Group, Treasury, *Proof Committee Hansard*, p. 38.

measures have been linked to revenue that has not materialised, and the committee believes it would be fiscally irresponsible to leave unfunded measures in place in the budget. The committee also notes that while the repeal of certain measures linked to the MRRT may be difficult and unpopular in some quarters, the government made it clear prior to the 2013 Federal Election that it was committed to repealing the MRRT and, with it, repealing or revising MRRT-related measures.

2.112 At the same time, the committee would encourage the government to revisit certain measures repealed or revised in the Bill, including the incentives in superannuation for low income earners, once the Budget is back in surplus. The committee also suggests that the government might consider this matter as part of its tax review.

2.113 The committee acknowledges the concerns of some superannuation groups regarding what they characterise as the retrospective application of the repeal of the Low Income Superannuation Contribution (LISC). However, the committee notes and agrees with Treasury's argument that as the repeal does not apply to income years prior to the year in which it was announced, it cannot be regarded as 'retrospective' in the way that term is broadly used in relation to taxation policy. The committee further notes that taxpayers eligible for the LISC are unlikely to have arranged their finances in anticipation of receiving the LISC, and could not be said to have been unfairly penalised as a result of the application of the changes from 1 July 2013.

Recommendations

Recommendation 1

2.114 The committee recommends that the government revisit certain measures in the Bill, in particular incentives in superannuation for low income earners and taxation issues affecting small business, once the Budget returns to strong surplus.

Recommendation 2

2.115 The committee recommends that the government consider revisiting the question of incentives in superannuation for low income earners as part of its tax review.

Recommendation 3

2.116 The committee recommends that the Bill be passed.

**Senator David Bushby
Chair**