

# **Dissenting Report by Labor Members**

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

1.1 The Minerals Resource Rent Tax Repeal and Other Measures Bill 2013 (the bill) proposes to remove the Minerals Resource Rent Tax (MRRT) with effect from 1 July 2014. It also discontinues or amends other measures. In this dissenting report, Labor senators first examine the importance of the other measures linked to the repeal of the MRRT before considering the merits of the proposed legislation as a whole. The measures associated with the repeal of the MRRT are divided into the three main groups affected by the proposals—low-income earners, those receiving superannuation concessions or benefits and small business.

### **Labor's support for the MRRT**

1.2 Before Labor senators outline their analysis of the provisions of the bill, they present a summary of their findings.

1.3 This legislation confirms that the government is committed to introducing a retrospective tax grab on millions of Australia's low paid workers, to give a tax refund to large mining companies.

1.4 Labor senators have a fundamental view that Australians deserve to share in the benefits of minerals we all own—ie the MRRT is a profit-based tax, so when profits are high, revenue is up.

1.5 When it is lower (ie during the construction phase of the boom), of course revenue will be lower—that's how the tax works.

1.6 The MRRT was not put in place for the next six months, it was put in place for the next generation. The Petroleum Resource Rent Tax (PRRT) which is a very similar tax covering petroleum and gas barely received any revenue in the first few years it was in operation.

1.7 Labor senators note that the government is being contradictory in its opposition to the tax. On one hand it has argued that the MRRT is not working because it is not making revenue at the same time as saying it is an unfair cost burden dragging down the mining sector.

1.8 The Labor members of the committee now consider the measures that affect each group and the merits of the proposed changes.

## **Low income earners**

1.9 A number of submissions expressed their opposition to the abolition of measures in the bill that directly benefit low income earners.<sup>1</sup> In their view, this move would be 'very detrimental' to the poorest in Australia. The measures include:

- the Income Support Bonus; and
- the Schoolkids Bonus.

### ***Income Support Bonus***

1.10 The bill would abolish the Income Support Bonus, a tax-free payment which came into effect earlier this year to help people prepare for unexpected living costs such as medical expenses or car repairs.

1.11 If the proposed abolition is successful, over 50s on the Newstart Allowance will lose the payment.

1.12 The income support bonus is an income tax exempt, indexed, non-means tested payment made twice every year to eligible social security recipients.<sup>2</sup> It was introduced in early 2013 'in recognition of the fact that the current rates of income support Allowance payments are manifestly inadequate'.<sup>3</sup> The bonus provides \$210 a year to single recipients and \$350 a year to most couples where both partners are eligible. The bonus is paid in instalments in March and September each year.<sup>4</sup> The total cost of the bonus is \$300 million per year.<sup>5</sup>

1.13 The bonus is paid to 1.1 million low income Australians, primarily to people receiving Newstart or Youth Allowance.<sup>6</sup> Currently, the maximum single rate of Newstart Allowance is \$248 per week. Unemployed young people living independently of their parents receive a weekly payment of \$204. Organisations such as the Australian Council of Social Service (ACOSS) and the National Welfare Rights Network highlighted the inadequacy of the allowances. ACOSS noted that this support:

...is not enough to meet the most basic essential costs such as housing, food, clothing and transport costs to search for a job. Research into financial hardship indicates that unemployed people and sole parents face a much higher risk of hardship than most other groups in the community.<sup>7</sup>

---

1 See for example, Shop, Distributive & Allied Employees' Association, *Submission 5*; ACTU, *Submission 7*; Ms Georgina Cross, *Submission 20*; Australian Council of Social Service, *Submission 21*; *Committee Hansard*, 27 November 2013, p. 1; and National Welfare Rights Network, *Submission 24*.

2 Explanatory Memorandum, paragraph 2.7.

3 National Welfare Rights Network, *Submission 24*, p. 1.

4 National Welfare Rights Network, *Submission 24*, p. 1.

5 See National Welfare Rights Network, *Submission 24*, p. 1.

6 National Welfare Rights Network, *Submission 24*, p. 1.

7 Australian Council of Social Service, *Submission 21*, p. 2.

1.14 As an example, ACOSS recorded that 57 per cent of Parenting Payment recipients and 28 per cent of Newstart Allowance recipients could not afford to pay utility bills on time compared with 12 per cent of all Australians. Over 40 per cent of both groups could not afford dental treatment when needed.<sup>8</sup> Clearly, the loss of the income support bonus would only add to the difficulties facing low-income people who simply cannot afford to lose that support.<sup>9</sup>

### **Schoolkids bonus**

1.15 Labor members are concerned that this legislation to repeal the Schoolkids bonus will hit families early next year, right when they start to turn their attention to buying clothing and text books, etc. for school age children, by cutting the Schoolkids bonus. This legislation removes payments of \$410 per primary school student and \$820 per high school student from 1.3 million Australian families starting from January next year through the abolition of the Schoolkids Bonus.

1.16 Labor senators contend that this is a payment not in any way linked to the MRRT despite the government's rhetoric. As outlined below, the origins of the bonus are in the Education Tax Refund. This bill increases the cost of living pressure on families with school aged children at a time when they can least afford it.

1.17 These are views shared by a number of submitters to the inquiry.

1.18 ACOSS informed the committee that one in six children (575,000) in Australia are currently living in poverty.<sup>10</sup>

1.19 The former government introduced the Schoolkids Bonus in 2011, which, as noted above, provides \$410 per year for each child in primary school and \$820 for a secondary school student. The bonus is an income tax exempt, indexed family assistance payment available to eligible families receiving Family Tax Benefit Part A and young people in school receiving youth allowance or veterans' payments. It replaced an annual Education Tax Refund, which was established to assist parents cover school costs and equated to about two-thirds of the cost of the Schoolkids bonus.<sup>11</sup> According to ACOSS, the MRRT was intended to cover the difference between the two costs and not the totality.<sup>12</sup> In this regard, ACOSS argued that the mining tax theoretically paid for only a third of the cost of the schoolkids bonus and hence the link between the schoolkids bonus and mining tax is tenuous:

While the Government has justified the proposed abolition of the Schoolkids Bonus on the basis of the link to the MRRT, this would only justify a reduction in funding of the difference between the payments.<sup>13</sup>

---

8 Australian Council of Social Service, *Submission 2*, pp. 2–3.

9 See for example, Shop, Distributive & Allied Employees' Association, *Submission 5*, p. 1.

10 Australian Council of Social Service, *Submission 21*, p. 3.

11 Australian Council of Social Service, *Submission 21*, p. 3.

12 Australian Council of Social Service, *Submission 21*, p. 3.

13 Australian Council of Social Service, *Submission 21*, p. 3 and *Committee Hansard*, 27 November 2013, p. 2.

1.20 It should be noted that Treasury would not provide the committee with a definitive answer on whether the Schoolkids bonus was only partially funded by the MRRT.<sup>14</sup>

1.21 While the National Welfare Rights Network accepted that this bonus could be criticised because it is not 'targeted as tightly as it could be', it argued that to abolish this bonus in its entirety would remove much needed support from low income families, in particular many single parent families.<sup>15</sup>

1.22 The Shop, Distributive & Allied Employees' Association observed that it was in Australia's long-term interests 'to provide adequate levels of support, including economic support to Australian families' so that all families could function effectively.<sup>16</sup> It stated:

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 families will lose to them in the form of real increases in family payments.<sup>17</sup>

1.23 ACOSS opposed the abolition of the payment without some alternative means of providing assistance that would be better and more effectively targeted.<sup>18</sup>

### ***Merits of proposed changes***

1.24 In summary, ACOSS argued that both the allowance bonus and schoolkids bonus should be judged on their merits and not their past link to a particular tax: that the payments should be retained and the schoolkids bonus made more efficient rather than 'completely scotched'.<sup>19</sup> It stated that the social expenditure measures in the bill have 'compelling social objectives behind them and there are pressing needs to be met in those areas'. In its view, 'the simplistic linking of this tax measure with these spending measures is hugely problematic' and the abolition of those payments would cause great damage in the short term. It argued that the proposed legislation was not the 'forum in which to do away with a range of measures that were making some, however small, progress towards greater equity' in Australia.<sup>20</sup>

1.25 Labor members endorse this view. They also note that the schoolkids bonus is only very partially linked to the MRRT and that, there is no justification for repeal of these benefits as part of the MRRT repeal.

---

14 See answers provided by Mr Hefferen, *Committee Hansard*, 27 November 2013, p. 38

15 National Welfare Rights Network, *Submission 24*, p. 2.

16 *Submission 5*, p. 2.

17 Shop, Distributive & Allied Employees' Association, *Submission 5*, p. 2.

18 *Committee Hansard*, 27 November 2013, p. 2.

19 Mr Peter Davidson, *Committee Hansard*, 27 November 2013, p. 7.

20 Ms Jacqui Phillips, *Committee Hansard*, 27 November 2013, p. 8.

## Superannuation measures

### *Repeal of the Low Income Superannuation contribution (LISC)*

1.26 Labor members make the following succinct points before discussing the repeal of the Low Income Superannuation Contribution (LISC) in greater detail:

- This move to abolish the LISC will increase superannuation taxes on 1 in 3 of Australia's lowest paid workers.
- The government has sought to cut both the super of millions of Australians earning up to \$37,000 while boosting the super for 16,000 people who have over \$2 million in super balances.
- This bill sees the government scrapping the LISC, which sees the equivalent of the superannuation tax (up to \$500) paid by a low income earner, up to \$37,000, paid into the superannuation account of the taxpayer.
- The LISC was important for a number of reasons. For high income earners, superannuation can be concessional: for low income earners, there are no effective incentives for them to contribute to their superannuation. This measure addressed that very issue.
- The removal of the LISC hits women particularly hard, **with 2.1 million women affected.**
- A significant percentage of these are mothers working part-time while looking after young children. This is exactly the time of a woman's career where an additional \$500 a year going into superannuation would be of most benefit for building savings for their retirement.
- The other major concern with this bill's removal of the LISC, is that it is an example of a retrospective tax measure—a fact confirmed by the Parliamentary Budget Office's checking of the Coalition's election costings.
- Low income earners entered the 2013–14 financial year on the understanding that they would be refunded their superannuation tax. Part way through this financial year and the government has changed the rules on taxpayers.

1.27 Industry Super Australia estimates that, when combined with the proposed delay in increasing the Super Guarantee to 12 per cent, the removal of the LISC **will reduce national savings by \$53 billion by 2021–22.**

1.28 This means a reduction in available capital for infrastructure investment by around \$5bn based on current industry-wide asset allocations. This at a time when the government is looking around for funding streams to finance new infrastructure projects.

1.29 The submissions that considered not only the repeal of the MRRT but the measures supposedly linked to the MRRT were highly critical of the abolition of the LISC.<sup>21</sup> Before the LISC was introduced, no real incentive existed for low income

---

21 See for example, National Welfare Rights Network, *Submission 24*, p. 3.

earners to make contributions.<sup>22</sup> Workers earning \$37,000 or less were penalised when saving for retirement by 'paying 15 cents in the dollar more tax on their super than if they had received the same amount in wages'.<sup>23</sup> The Financial Services Council stated 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.<sup>24</sup>

1.30 The LISC was an important initiative designed to address the very low superannuation savings of low-income Australians, particularly women who are more likely to be in part-time work and earning below the tax free threshold.<sup>25</sup> According to the Australia Institute, the LISC is 'not a concession to low income earners but is a measure designed to offset the penalty of having income super taxed at 15 per cent when the taxpayer concerned has insufficient income to trigger any personal income tax liability'.<sup>26</sup>

1.31 The LISC was also intended to alleviate future pressure on the age pension.<sup>27</sup> It is payable each year in respect of concessional superannuation contributions made in each income year. Under the proposed legislation, the LISC would be no longer payable in respect of concessional contributions made after 1 July 2013.<sup>28</sup>

1.32 Mr Davidson of ACOSS argued that in a fairer superannuation system people earning less than \$37,000 would receive 'a positive incentive for their compulsory saving rather than what it is, in effect, a zero incentive'.<sup>29</sup> In support of the retention of the LISC, ACOSS described the contribution as a 'small step towards a fairer superannuation system'.<sup>30</sup> Even though ACOSS was of the view that the LISC did not go 'anywhere near making the system fair and sustainable into the future', it argued that its abolition would have 'a regressive effect, penalising those on low income for saving for retirement'.<sup>31</sup>

1.33 In effect, removing this superannuation contribution rebate would penalise compulsory superannuation contributions by increasing the tax rate for low-income earners earning below \$37,000 by 15 cents in every dollar contributed. ACOSS stated that it was not fair to compel people to save and then penalise them 15 cents in the

---

22 See for example, Association of Superannuation Funds Australia Ltd, *Submission 11*, p. 3.

23 Australian Council of Social Service, *Submission 21*, p. 4.

24 *Submission 9*, p. 2.

25 Australian Council of Social Service, *Submission 21*, pp. 4–5.

26 *Submission 15*, p. 17.

27 See for example, Australian Council of Social Service, *Submission 21*, p. 4.

28 Explanatory Memorandum, paragraph 2.7.

29 *Committee Hansard*, 27 November 2013, p. 5.

30 Australian Council of Social Service, *Submission 21*, p. 4.

31 Australian Council of Social Service, *Submission 21*, p. 5.

dollar for doing so.<sup>32</sup> Mercer (Australia) described the measure as 'an adverse retrospective amendment to existing legislation' that would 'further diminish confidence in the system'.<sup>33</sup>

1.34 ACOSS argued that the tax system for super contributions is 'upside down'.<sup>34</sup> For example, for every dollar contributed by an employer on behalf of an individual earning \$200,000, that individual saves 32 cents in tax.<sup>35</sup> In other words, as described by Dr Richard Denniss, if a high-income earner were to put \$1,000 into super, he/she would save \$300 in tax, whereas a low-income earner would pay \$150 more in tax if he/she were to put \$1,000 into super.<sup>36</sup>

1.35 The Australian Council of Trade Unions (ACTU) noted succinctly that the repeal of the LISC would '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'.<sup>37</sup> The Australian Institute of Superannuation Trustees similarly observed that without the LISC, low-income earners would be the only working Australians not to qualify for 'tax breaks on their superannuation contributions compared with their income tax'.<sup>38</sup>

1.36 According to the ACTU, unions, tax policy experts and the superannuation industry have long recognised that the flat rate taxation of superannuation contributions at 15 per cent is profoundly regressive and socially unjust.<sup>39</sup> It explained further that:

...this bill proposes to 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. This bill will raise superannuation taxes on 3.6 million low-paid workers, 2.1 million of whom are women. Just as an example, about 360,000 retail workers alone will see an increase in super taxes. It is unjustifiable and unfair, particularly in circumstances where the government has chosen to not proceed with a very modest saving in respect of super taxes on high-income earners.<sup>40</sup>

---

32 Mr Peter Davidson, *Committee Hansard*, 27 November 2013, p. 5.

33 *Submission 8*, p. 3.

34 *Committee Hansard*, 27 November 2013, p. 2.

35 See Australian Council of Social Service, *Submission 21*, p. 4.

36 Dr Richard Denniss, *Committee Hansard*, 27 November 2013, p. 5.

37 Mr Tim Lyons, *Committee Hansard*, 27 November 2013, p. 5.

38 Mr David Haynes, *Committee Hansard*, 27 November 2013, p. 15.

39 *Submission 7*, p. 8.

40 Mr Tim Lyons, *Committee Hansard*, 27 November 2013, p. 4.

1.37 The National Welfare Rights Network also argued that the abolition of the LISC would be 'an effective tax increase on 3.6 million workers, including 2.1 million women, many of who have very low and inadequate retirement incomes':

This change in the law means that these workers will be paying more tax on their superannuation than on their take home pay. It will mean that low income earners will have less money in retirement, and therefore the call on the Age Pension will be greater in the future.<sup>41</sup>

1.38 Industry Super Australia (ISA) informed the committee that 'the removal of the LISC has the potential to diminish total retirement savings in super by up to \$27,000 in present dollars (around 15 per cent less) for young low wage earners'.<sup>42</sup>

1.39 The ACTU noted that the Explanatory Memorandum makes no attempt to discuss or engage with the distributional and social justice issues raised by abolishing the LISC.<sup>43</sup>

1.40 ISA informed the committee that the industry recognises that the repeal of the MRRT would affect the budget but 'cutting one-third of the workforce off any tax-concessional super is not a sustainable way forward'. It cited the Henry Tax Review which found that 'the flat 15 per cent contribution tax was regressive in its impact, with low income earners paying more tax on their super contributions than their take home earnings'.<sup>44</sup> Mr Mathew Linden, ISA, quoted from the tax review which recommended 'a change to the contribution concessions—a 20 per cent flat rebate for everyone—which in our assessment would be broadly neutral'.<sup>45</sup> In ISA's analysis:

...such a tax offset, or one slightly more generous, on post-tax contributions, and in lieu of existing contribution concessions, would be broadly revenue neutral.<sup>46</sup>

1.41 Treasury also referred to the tax review and its recommendation for having a standard rebate on contributions whereby the tax concession would be kept consistent irrespective of whether one was on the lowest marginal tax rate, on the highest or somewhere in between.<sup>47</sup>

1.42 In addition to the adverse effects on low-income earners and the overall unfairness of abolishing the LISC, Mercer (Australia) had serious concerns about the retrospectivity of the LISC provision as currently drafted. ISA was of a similar view. It stated:

---

41 National Welfare Rights Network, *Submission 24*, p. 3.

42 *Submission 19*, p. 4.

43 *Submission 7*, p. 9.

44 *Submission 19*, p. 3.

45 *Committee Hansard*, 27 November 2013, p. 16.

46 *Submission 19*, p. 8.

47 *Committee Hansard*, 27 November 2013, p. 38.



...the repeal of the LISC will remove the entitlement for eligible contributions already made between July 2013 and the passage of the Bill if Parliament agrees to it. **Under the proposed provisions the Commissioner for Taxation will be required to deny taxpayers the benefit of the LISC on eligible contributions already made.**

1.43 Such a situation would not only produce 'an unfair and unsustainable outcome for low income taxpayers' but put the Commissioner in an untenable position. The ISA explained further:

The Bill's proposed retrospective treatment of the repeal of the low income superannuation contribution is unprecedented and inconsistent with the Bill's treatment of other provisions. The retrospective application of this particular provision is also inconsistent with other recent repeals of tax offsets.<sup>48</sup>

1.44 The Financial Services Council recommended that the government not repeal the LISC but instead 'pause' the policy by amending the date from which fund members could accrue an entitlement to a LISC payment to 1 July 2017 to allow the Budget position to strengthen. It suggested that a pause would 'secure the same Budget savings in the forward estimates as currently forecast'.<sup>49</sup>

1.45 Women in Super was of the view that the funding link between the MRRT and the LISC should be broken and funding for the LISC should be drawn from alternative sources.<sup>50</sup> Labor members agree with this proposal.

#### ***Pausing the Superannuation Guarantee charge percentage increase***

1.46 Under existing arrangements, the Superannuation Guarantee (SG) charge percentage was to increase from 9.25 per cent to 9.5 per cent for the year starting 1 July 2014 and gradually increase by half a percentage point each year until it reached 12 per cent for years starting on or after 1 July 2019.<sup>51</sup> Lifting the SG was intended to raise non age-pension retirement incomes.<sup>52</sup> The proposed legislation would, however, pause the SG charge percentage at 9.25 per cent for the years starting on 1 July 2014 and 1 July 2015 and increase to 9.5 per cent for the year starting on 1 July 2016. It would then gradually increase by half a percentage point each year until it reaches 12 per cent for years starting on or after 1 July 2021.<sup>53</sup>

1.47 While supporting the superannuation system and recognising the current gaps in the adequacy of retirement incomes for many Australians, the Australian Industry (Ai) Group supported this rescheduling. It noted that:

---

48 *Submission 19*, p. 9 (emphasis in original).

49 *Submission 9*, p. 2.

50 *Submission 13*, p. 2.

51 Explanatory Memorandum, paragraph 2.7.

52 The Australian Industry Group, *Submission 22*, p. 3.

53 Explanatory Memorandum, paragraph 2.7.

Depending on the incidence of the changes, it imposes costs on business or it detracts from disposable incomes. These impacts are occurring at a time when business costs are under pressure and household spending is weak and, regardless of the economic incidence of the measure, it has dampened economic activity and growth when the economy has been slowing.<sup>54</sup>

1.48 The Ai Group wanted a more considered approach to examining the 'case for improving the adequacy of superannuation arrangements and the alternative means of doing so'. It was of the view that the issue should be considered in the context of the Government's review of taxation.<sup>55</sup>

1.49 In contrast, ISA informed the committee that the delay in increasing the SG would reduce aggregate superannuation savings by an estimated \$40 billion by 2021–22. It stated further that this figure is 'broadly consistent with other estimates including Deloitte Actuaries and Consultants who have estimated an impact of \$77 billion by 2033.'<sup>56</sup> Mercer (Australia) stated that the deferral of the increase in the SG would:

- reduce retirement incomes for future retirees;
- increase pressure on the cost of the government age pension in future years;
- reduce consumer confidence in the superannuation system;
- result in potential practical difficulties for employers, particularly if the proposed legislation is not passed before 31 March 2014; and
- potentially result in industrial action by employees who consider they may have been disadvantaged.<sup>57</sup>

1.50 The ACTU stated that unions together with the entire superannuation industry have long held the view that 'an SG rate of 9 per cent would not be sufficient to secure a reasonable level of comfort for most workers when they retire'.<sup>58</sup>

### ***Women and the new superannuation arrangements***

1.51 Women would be particularly disadvantaged by repealing the LISC and delaying the SG. ISA told the committee that the LISC was one of 'the few dedicated measures designed to improve the retirement income adequacy of women'. It explained:

Women are most heavily concentrated in the lower income rungs where the LISC operates, with an estimated two thirds of the 3.6 million total eligible

---

54 The Australian Industry Group, *Submission 22*, p. 3.

55 *Submission 22*, p. 4.

56 *Submission 19*, p. 7.

57 *Submission 8*, p. 1.

58 *Submission 7*, p. 9.

---

population being women. This factor alone should heavily weigh against the abolition of the LISC.<sup>59</sup>

1.52 The Financial Planning Association of Australia noted that repealing the LISC would reintroduce 'systemic inequality into the Australian superannuation system and particularly so for women 'half of whom already receive the benefits of the LISC and account for nearly two-thirds of those affected by repealing the LISC.'<sup>60</sup> Ms Catherine Wood, Women in Super, stated that:

Women currently have only half the superannuation savings of men. The average retirement payment for a woman is \$112,000 compared to \$198,000 for a man. On top of that, women live longer than men, so their reduced savings must stretch over a longer period in retirement. The super savings gap is the result of many factors, including unequal pay, which is currently at 17.5 per cent. It is caused by breaks from the workforce, periods of part-time work, overrepresentation in lower paid industries and barriers to employment beyond age 45. Women in Super support policies that assist low-income earners as women make up the majority of this sector of the workforce.

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.<sup>61</sup>

1.53 During his second reading speech, the Treasurer announced that when the government is 'responsibly able and once the Budget has been returned to a strong surplus, the Coalition will revisit concessional contribution caps and incentives for low income earners'.<sup>62</sup> Representatives from the superannuation industry, however, advanced a number of suggestions that would remove the budgetary imperative to repeal the LISC and delay the SG increase. Mr Haynes, Australian Institute of Superannuation Trustees, explained:

Superannuation has been actively, positively, cooperatively engaged with the current and the previous governments in relation to the implementation of Stronger Super reforms over the course of the last three years. Many of those reforms will directly lead to increased efficiencies in the superannuation industry—for example, the implementation of the SuperStream reforms to the back office of superannuation will lead to enormous savings for the whole of the economy. They have been estimated at the level of \$1 billion a year, in relation to the superannuation industry. There are similar levels of savings in relation to employers, and there are

---

59 *Submission 19*, p. 4.

60 Financial Planning Association of Australia, *Submission 6*, p. 2.

61 *Committee Hansard*, 27 November 2013, pp. 15–16.

62 The Treasurer, the Hon Joe Hockey MP, Second Reading Speech.

savings of many, many hundreds of millions of dollars a year in relation to the operation of the tax office and other regulators. We would suggest to the committee that our participation in the Stronger Super package of reforms was done in recognition of the other elements of the previous government's superannuation policies—that is, the increase of the superannuation guarantee to 12 per cent and the introduction of the LISC—and that the sum of those measures actually leads to very significant cost savings for all participants in the industry, including, and importantly in the context of this committee hearing, the government and its agencies.<sup>63</sup>

1.54 The Construction, Forestry, Mining and Energy Union (CFMEU) noted that the planned increase in the mandatory superannuation contributions, to be postponed by two years under the legislation, was not actually related to government expenditure. It was particularly disappointed that the measure has been proposed as part of the MRRT repeal.<sup>64</sup>

### ***Merits of proposed changes***

1.55 ISA highlighted the importance of considering 'the long-term budget impact from the pause in the SG and abolition of the LISC', noting that 'the long-term costs will principally be felt through increased aged pension outlays resulting from lower personal superannuation savings'.<sup>65</sup> Mr Ross Clare from the Association of Superannuation Funds of Australia, stated that:

Taxes and expenditures should be justified on their own merits, and in this context we consider both the increase in the SG and also retention of the low-income superannuation contribution truly justified on public policy grounds.<sup>66</sup>

1.56 The Australian Institute of Superannuation Trustees also objected to tying the measure to the MRRT, stating that 'just like the age pension, these measures are unrelated to a tax on resources companies and should be explicitly de-coupled'.<sup>67</sup>

### **Small business provisions**

1.57 Labor senators are concerned that the government's legislation will:

- **increase taxes on up to 2.7 million small businesses; and**
- **close the loss carry-back scheme, taking away tax breaks for up to 110,000 businesses.**

1.58 The Coalition's plan to remove these small business investment incentives has united big and small business in opposition, with both the Ai Group and Council of Small Business of Australia (COSBOA) speaking out against the removal.

---

63 *Committee Hansard*, 27 November 2013, p. 17.

64 *Submission 3*, p. 6.

65 *Submission 19*, 7.

66 Mr Ross Clare, *Committee Hansard*, 27 November 2013, p. 14.

67 *Submission 12*, p. 5.

1.59 The Ai Group said the reduction in the small business instant asset write-off threshold would 'add complexity and compliance costs for eligible small businesses'.<sup>68</sup> COSBOA agreed.<sup>69</sup>

1.60 This completely contradicts the government's commitment to reducing compliance costs and red-tape by \$1 billion a year.

1.61 Labor senators are also concerned that at the very time the government should be looking to boost non-mining investment as the mining boom moves from the investment to the construction phase the government is removing key small business measures that actually encourage growth and investment in equipment and assets.

1.62 A number of submissions also referred to proposed changes to measures designed to assist small business including:

- the loss carry-back provisions; and
- small business instant asset write off.

### ***Loss carry-back provisions***

1.63 The loss carry-back arrangements allow a company to choose to carry its tax losses back to one of the previous two income years. According to the Explanatory Memorandum:

The amount carried back is then multiplied by the corporate tax rate to produce a tax offset that is refundable to the company in the current income year.<sup>70</sup>

1.64 According to the ACTU, the loss carry-back regime was an 'important measure that ended the asymmetric treatment of tax losses'.<sup>71</sup> Only recently enacted, the provisions attempted to address this asymmetrical treatment of tax losses. They enabled a company making a tax loss of up to \$1 million to recoup taxes paid on an equivalent income amount earned in the previous two years.<sup>72</sup> According to the Australian Industry Group, retaining the provisions would serve two important purposes:

- it would retain the, albeit limited, inroads into the distortions the Australian tax systems imparts as a result of the asymmetric treatment of losses; and
- by giving the taxation authorities a level of experience in the administration of such arrangements, it would better inform the insights they could provide to the government's foreshadowed review of taxation when it examines this complex area of tax policy.<sup>73</sup>

---

68 *Submission 22*, p. 3.

69 See paragraph 1.73.

70 Explanatory Memorandum, paragraph 2.11.

71 Mr Tim Lyons, *Committee Hansard*, 27 November 2013, p. 4.

72 The Treasury, *Submission 23*, p. 3.

73 The Australian Industry Group, *Submission 22*, p. 2.

1.65 Unfortunately, the loss carry-back arrangement is to be repealed.<sup>74</sup> Submissions representing the interests of business argued strongly against removing this provision.<sup>75</sup> Under the proposed legislation, companies can only carry their tax losses forward to use as a deduction for a future year.<sup>76</sup> Dr Burn, Ai Group, explained that a company in a loss-making year does not pay tax, nor is it entitled to a tax refund—it is entitled to claim that loss later on when it next makes a profit. According to Dr Burn, this delay is recognised as a cost on business.<sup>77</sup> He explained further:

If those losses can only be claimed against profits for tax purposes later on, in profit years, the net present value of its investments will fall, because it has to wait longer for the cash flow. The other point is that the real value of the losses erodes over time. Losses are not indexed, and if you have to wait three years to get the benefit of your tax losses against future profits that is a significant erosion of the real value of those losses. So the net present value of the after-tax profits falls noticeably when you allow for loss-making years in your calculations. That then reduces the return on those investments and reduces also the likelihood that those investments will be made.<sup>78</sup>

1.66 The ACTU informed the committee that there was widespread support for maintaining the loss carry-back regime and that the small-to-medium sized businesses would be adversely affected by its repeal. It noted that the cash-flow benefits of loss carry-back 'can mean that some businesses will remain in operation that would not have done so if carry-back had not been available'.<sup>79</sup> It stated further:

Over the course of the economic cycle, more businesses will fail without the loss carry-back regime than would be the case if the regime were maintained. This will harm employment. The problem will be particularly acute for firms in sectors that are most affected by short-term economic shocks, such as sudden appreciation in the exchange rate.<sup>80</sup>

### ***Small business instant asset write off***

1.67 Under current legislation, small business entities can claim a deduction for the value of a depreciating asset that costs less than \$6,500 in the income year the asset is first used or installed ready for use. The proposed legislation reduces the threshold to \$1,000, which means that small business entities will only be able to claim

---

74 The Treasury, *Submission 23*, p. 3.

75 See for example, the Australian Industry Group, *Submission 22*, p. 2; ACTU, *Submission 7*, p. 5 and Australian Chamber of Commerce and Industry, *Submission 18*, p. 2.

76 Explanatory Memorandum, paragraph 2.7.

77 Dr Peter Burn, *Committee Hansard*, 27 November 2013, p. 10.

78 Dr Peter Burn, *Committee Hansard*, 27 November 2013, p. 10.

79 ACTU, *Submission 7*, pp. 4–5.

80 ACTU, *Submission 7*, p. 5.

a deduction for the value of a depreciating asset that costs less than \$1,000 in the income year the asset is first used or installed.<sup>81</sup>

1.68 The Ai Group does not support the provision that would reduce the small business asset write off threshold. Dr Burn, Ai Group, stated that the existing arrangement provides a very important boost to a company's 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'.<sup>82</sup>

1.69 Under the current legislation, according to Dr Burn, recordkeeping was also very much reduced.<sup>83</sup> He informed the committee that the Australian economy faced a 'large gap in investment, particularly outside the mining sector'. He stated that the proposal to remove the instant write-off facility for small business would have a material effect on them and 'decrease investment at the time it is needed most'. In his view, waiting for the tax review in these cases is 'poor timing': that the 'timing need is right now'.<sup>84</sup>

#### *Depreciation for motor vehicles*

1.70 With regard to motor vehicles, currently small businesses can deduct the first \$5,000 of the cost of a motor vehicle, plus 15 per cent of any remaining cost in the income year it is first purchased. Under the proposed legislation, these special rules will no longer apply to motor vehicles, which will be subject to the same rules as other depreciating assets.<sup>85</sup>

1.71 The Ai Group supported the repeal of accelerated depreciation arrangements for motor vehicles. In its view the selective accelerated depreciation arrangements for motor vehicles used by small businesses 'distorts small business's investment decisions in favour of expenditure on motor vehicles relative to expenditure on other, and in many cases, more productive assets'.<sup>86</sup>

1.72 The Real Estate Institute of Australia argued that 'an environment that promotes investment is crucial to the long term viability of small business particularly when the message from Australia's economic indicators is mixed and the outlook remains fragile'.<sup>87</sup> It maintained that repealing the small business measures would, through its adverse effect on small business and the broader economy, be detrimental to Australia's economic recovery.<sup>88</sup> In this regard, the Australian Chamber of

---

81 Explanatory Memorandum, paragraph 2.7.

82 Dr Peter Burn, *Committee Hansard*, 27 November 2013, p. 10.

83 Dr Peter Burn, *Committee Hansard*, 27 November 2013, p. 12.

84 Dr Peter Burn, *Committee Hansard*, 27 November 2013, p. 10.

85 Explanatory Memorandum, paragraph 2.7.

86 The Australian Industry Group, *Submission 22*, p. 2.

87 Real Estate Institute of Australia, *Submission 4*.

88 *Submission 4*, p. 2.

Commerce and Industry noted that the loss carry back and small instant asset write off provisions act as stimulus measures:

...with economic growth having slowed over the course of the past year, particularly with the labour market softening, there is a case for some other policy levers to be used to try to act as economic stimulus rather than putting such heavy weight on the Reserve Bank and the use of monetary policy. That is why we say these measures should be independently assessed and should stand alone from both the politics and the substance of the minerals resource rent tax issue.<sup>89</sup>

1.73 Labor senators also noted that while COSBOA did not make a submission to this inquiry, it had been previously critical of the abolition of these measures. COSBOA made its view known in its election policy analysis of the Coalition's policies at <http://www.strongsbiz.com.au/Portals/105/Transcape/Comparison%20of%20policies%20of%20parties%20Sept1.pdf>.

1.74 Labor senators draw particular attention to the advice provided to the committee that Treasury did not undertake any modelling on the likely impacts on investments of discontinuing the loss carry-back and changing the instant asset write-offs threshold.<sup>90</sup>

### ***Merits of proposed changes***

1.75 Referring to both the small business measures that are being repealed, the Ai Group argued that they have a strong policy rationale: that their retention would not only boost investment and cash flows for small business but also benefit the broader economy.<sup>91</sup> Furthermore, the Australian Chamber of Commerce and Industry maintained that the existing capital allowance for small business and the loss carry-back regime have merit in their own right and should be de-coupled from the MRRT legislation and funded independently.<sup>92</sup>

1.76 At a time when Australian small businesses need support and incentives to invest and their confidence needs boosting, measures are required to stimulate economic activity not dampen it. The measures in this bill will not provide that much needed encouragement. The apparent lack of analysis on the effects of the proposed changes on small business and the economy as a whole is of particular concern.

### ***Geothermal energy exploration***

1.77 Under current arrangements, geothermal energy exploration and prospecting expenditure is deductible in the income year that the asset is first used or expenditure is incurred. Under the new legislation, this expenditure would not be immediately deductible. The Australia Institute observed that this measure 'seems to contradict the intention behind Direct Action'. It argued that:

---

89 Mr Peter Anderson, *Committee Hansard*, 27 November 2013, pp. 10–11.

90 Mr Robert Heferen, *Committee Hansard*, 27 November 2013, pp. 39–40.

91 *Submission 22*, p. 1.

92 *Submission 18*, p. 2.



---

If this measure is repealed geothermal exploration will not have the same incentives as any ordinary explorer looking for fossil fuels will get. If anything the playing field should be tilted in favour of geothermal energy exploration.<sup>93</sup>

1.78 The Australia Institute suggested that this decision should not go ahead or, if it does, it should be replaced with measures to boost the attraction of investment in geothermal.<sup>94</sup> Labor members wish to raise their concerns about discontinuing this measure without the government advancing viable alternatives to encourage geothermal energy exploration. The removal of this measure will provide \$10 million in savings over the forward estimates.<sup>95</sup>

### ***Regional Infrastructure Fund***

1.79 The Treasury also stated that the government was committed to discontinuing the Regional Infrastructure Fund and Regional Development Australia Fund. It explained, however, that the bill does not contain amendments to give effect to these measures because no legislative requirements were necessary to discontinue them.<sup>96</sup>

### **MRRT and the Mining Industry**

1.80 Dr John Kunkel, Minerals Council of Australia, told the committee that the minerals industry has never questioned the ownership of the minerals as they are and the rights of governments to put fiscal instruments on those minerals. He indicated further that the industry would 'always be up for a genuine conversation about tax reform'. Further, Dr Kunkel stated that the industry 'recognises that in terms of both its regulatory and social licences to operate there clearly needs to be shared benefit from the development of mineral resources'.<sup>97</sup>

1.81 The Australia Institute noted that the MRRT failed to collect much revenue in its early years, citing the 2013–14 budget papers that reported only \$0.2 billion was expected to have been collected in 2012–13.<sup>98</sup> Atlas Iron similarly observed that the MRRT had raised no significant tax, adding further that it had increased compliance and administration costs while reducing both Australia's international competitiveness and the appeal of Australian iron ore projects to foreign investors.<sup>99</sup> The Treasurer announced that since its inception from 1 July 2012, the MRRT had collected a net \$400 million.<sup>100</sup>

---

93 *Submission 15*, p. 19.

94 *Submission 15*, p. 19.

95 The Treasurer, the Hon Joe Hockey MP, Second Reading Speech.

96 The Treasury, *Submission 23*, p. 3.

97 *Committee Hansard*, 27 November 2013, pp. 22–23.

98 See the Australia Institute, *Submission 15*, p. 2.

99 *Submission 16*, p. 2.

100 The Treasurer, the Hon Joe Hockey MP, Second Reading Speech.

1.82 According to the Treasury, approximately 235 companies are currently registered for MRRT with another 65 expected to register. Of that total number, however, only around 20 are subject to obligations under the MRRT—that is fewer than 20 have an MRRT liability.<sup>101</sup>

1.83 A number of submissions referred to the importance of ensuring equity and fairness in Australia's taxation system. It should be noted that the MRRT applies only to coal and iron ore. The ACTU noted that Australia has some of the world's largest identified reserves of non-renewable resources such as brown coal, lead, nickel, silver uranium, zinc, copper and iron ore. It contended that the rights to these valuable resources belong to the Australian community. In its view, Federal and state governments could legitimately seek an appropriate return from the private companies that are allowed to exploit these resources for private gain. It cited the Henry review, which found:

Australia's current resource charging arrangements fail to collect an appropriate return for the community from allowing private firms to exploit non-renewable resources, mainly because arrangements are unresponsive to changes in profits.<sup>102</sup>

1.84 The Australia Institute concluded that:

The need for a tax on mining activities in Australia should be broadened to include all minerals. The miners can easily bear it and their super profits are due to the Australian resources they exploit—not their own abilities.

...

There is a strong case for taxing mining super profits and it seems the miners have got off fairly lightly. At the very least, we might suggest that the MRRT should be increased to 40 per cent, the PRRT rate, and that it should apply universally.<sup>103</sup>

1.85 According to the Australia Institute, a resource rent tax is a tax 'on the profits that are over and above those profits required to attract an investment' in that industry and was an 'appropriate way to share the enormous windfall benefits that come from a commodity boom'.<sup>104</sup>

1.86 A number of witnesses acknowledged that the MRRT was a good idea.<sup>105</sup> The Australia Institute argued that taxing rents is desirable for all sorts of reasons and cited the petroleum resource rent tax which, in its view, is 'now part of the furniture and we

---

101 *Committee Hansard*, 27 November 2013, p. 35. See also Explanatory Memorandum, paragraphs 3.37–3.39, p. 54.

102 See Australian Council of Trade Unions, *Submission 7*, p. 3.

103 *Submission 15*, p. 14.

104 Dr Richard Denniss, *Committee Hansard*, 27 November 2013, pp. 3, 5.

105 See for example, Mr Peter Davidson, ACOSS, *Committee Hansard*, 27 November 2013, p. 2.

never hear complaints about that' and 'if left alone, pretty soon the mining resources rent tax would be treated in the same way'.<sup>106</sup>

1.87 The Shop, Distributive & Allied Employees' Association stated that the minerals in the grounds 'belong to Australians and all Australians are entitled to share the benefits they bring'. Although it accepted that there were flaws in the MRRT, it took the view that some form of minerals resource tax is justified.<sup>107</sup> The ACTU also conceded that in some important respects MRRT arrangements were flawed but they 'nevertheless acted to secure some of the return that the Henry review panel had thought fair and legitimate for the community to expect'.<sup>108</sup>

1.88 The CFMEU supported the contention that the mining industry should have 'to bear the largest possible tax burden that still enables it to attract investment and pay reasonable returns to investors'.<sup>109</sup> In its view, the Australian mining industry generally pays a substantial level of tax—but in recent years it 'could have paid more without diminishing its attractiveness as an investment'.<sup>110</sup> It was of the view that the rationale for a resources rent tax for the Australian mining, oil and gas industries remains strong: that it makes economic sense 'to tax an industry heavily when it is highly profitable, and tax it less when it is less profitable...especially so where the industry relies on access to inputs that are the property of the Australian people'.<sup>111</sup>

1.89 It suspected that the deductions for market value of assets may be one of the key reasons for the MRRT failing to produce the revenues that were expected in its first year(s) of operation.

1.90 In its submission, the CMFEU referred to the Petroleum Resource Rent Tax and concluded that the repeal of the MRRT would have the perverse outcome that 'the oil and gas industries are subject to a resource rent tax—which has enabled those industries to thrive—while the mining industry will not be'.<sup>112</sup>

1.91 Dr Richard Denniss referred to extending MRRT to gold, bauxite and a wide range of other minerals in order to collect more revenue.<sup>113</sup> ACOSS was convinced that there was a range of direct and tax expenditure savings and revenue measures, which could achieve savings more efficiently and fairly than the proposed legislation would.<sup>114</sup>

---

106 Mr David Richardson, *Committee Hansard*, 27 November 2013, p. 2.

107 Shop, Distributive & Allied Employees Association, *Submission 5*.

108 ACTU, *Submission 7*, p. 3.

109 CFMEU, *Submission 3*, p. 2.

110 CFMEU, *Submission 3*, p. 2.

111 CFMEU, *Submission 3*, p. 3.

112 CFMEU, *Submission 3*, p. 4.

113 *Committee Hansard*, 27 November 2013, p. 8.

114 *Committee Hansard*, 27 November 2013, p. 1.

### ***Linking other measures with the repeal of the MRRT***

1.92 A number of submissions questioned the need to link the repeal of the MRRT to the other measures outlined in the bill.<sup>115</sup> ACOSS understood that measures in the bill were linked in time to the MRRT, but were of the view that otherwise they 'have no necessary connection with each other.'<sup>116</sup> While ACOSS supported firm action to restore the budget to structural balance, it argued that each measure in the bill should be considered separately on its merits. As noted earlier, ACOSS argued that the social expenditure measures in the bill have 'compelling social objectives behind them and there are pressing needs to be met in those areas'. In its view 'the simplistic linking of this tax measure with these spending measures is hugely problematic' and the abolition of those payments would cause great damage in the short term. The Financial Planning Association of Australia argued that some of the proposed changes are 'not inherently linked to the MRRT and are vital developments in the Australian superannuation system'. It suggested that alternative sources of funding should be found for them.<sup>117</sup> Also, as cited previously, the Australian Institute of Superannuation Trustees objected to tying the provisions dealing with superannuation to the MRRT, stating that 'just like the age pension, these measures are unrelated to a tax on resources companies and should be explicitly de-coupled'.<sup>118</sup>

1.93 The ACCI voiced similar sentiments in respect of de-coupling the small business measures from the MRRT and the need to find alternative funding. It argued that the measures should be independently assessed and stand alone from both the politics and the substance of the MRRT issue.<sup>119</sup>

1.94 The Financial Planning Association of Australia referred to the Explanatory Memorandum, which states that the government will 'revisit incentives in superannuation for low income earners once the budget is back in a strong surplus'.<sup>120</sup>

### **Conclusion**

1.95 Labor members of the committee are opposed to this bill, the removal of the MRRT and the 'associated measures'.

- We are concerned that the government has set about giving tax breaks to high-income earners and larger businesses, while punishing low-income earners, families and small businesses.

---

115 For example see Ms Jacqui Phillips, *Committee Hansard*, 27 November 2013, p. 1, Mr Davidson, *Committee Hansard*, 27 November 2013, p. 7. Also refer to paragraph 1.28 citing Women in Super, which was of the view that the funding link between the MRRT and the LISC should be broken and funding for the LISC should be drawn from alternative sources.

116 *Committee Hansard*, 27 November 2013. p. 1.

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

118 Australian Institute of Superannuation Trustees, *Submission 12*, p. 5.

119 Mr Peter Anderson, *Committee Hansard*, 27 November 2013, pp. 10–11.

120 The Financial Planning Association of Australia, *Submission 6*.

- Given prevailing economic circumstances and the need for greater investment in the non-mining sectors, this is precisely the wrong time to be removing the measures that encourage small business to invest.

1.96 Labor members of the committee are also not convinced about the wisdom of the dismissal of the MRRT. They believe that while there is much scope for improving the tax, the fundamental principle underpinning a minerals resources rent tax remains sound and worth pursuing. They also believe that, although originally linked to revenue anticipated to be raised by the MRRT, the other measures in the bill should be de-coupled from the MRRT and assessed on their own merits. In particular, alternative sources should be found to fund the LISC, the income support bonus and the business stimulus measures. As a number of witnesses noted, high-income earners have been allowed to retain and enjoy significant benefits at the expense of those on the lower income scale.

1.97 Although repealing the MRRT might reduce the tax burden on some iron ore and coal miners, the consequent repeal of, or changes to, other measures would have a detrimental effect on some of Australia's poorest workers and on small businesses operating in a difficult economic environment. Labor members can see no justification in shifting the burden from the mining industry to those least able to bear it or allowing high-income earners to enjoy benefits at the expense of those in greater need. Clearly, the legislation is inequitable, short-sighted and ill-conceived.

### **Recommendation**

**1.98 Labor members of the committee recommend that the bill not proceed.**

Senator Gavin Marshall  
Deputy Chair

Senator Louise Pratt

Senator Sam Dastyari (participating member)

