



Introduction

Referral of the Bill

- 1.1 On 1 March 2012 the Selection Committee referred the Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012 (the Bill) to the committee for inquiry and report.

Contents and structure of the Bill

GST-free health supplies

- 1.2 Schedule 1 amends the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) to ensure that certain supplies made to insurers in settling insurance claims under both private health insurance policies and taxable insurance policies are GST-free to the extent that the underlying supply to the insured is GST-free under Subdivision 38-B of the GST Act. The amendments similarly apply to supplies made to a statutory compensation scheme operator, compulsory third party scheme operator, and the Commonwealth, State and Territory governments.
- 1.3 The amendments were triggered by the Full Federal Court in July 2010 in *Commissioner of Taxation v Secretary to the Department of Transport (Victoria)*.¹ There, the department had an arrangement with taxi drivers to pay them a subsidy for providing taxi services to disabled passengers. The Commissioner argued that there had been no taxable supply made by the

1 [2010] Federal Court of Australia Full Court (FCAFC) 84.

taxi operators to the department, and denied the department's claim for input tax credits. The court found for the department.

- 1.4 The court took a broad interpretation of the law. The decision could potentially affect multi-party arrangements of supplies of GST-free health related goods and services made in settlement of claims under GST-free private health insurance and taxable insurance policies. This could also extend to statutory compensation schemes and Compulsory Third Party (CTP) schemes, and in relation to certain government health funding arrangements.
- 1.5 There will be no retrospective application of these amendments, which would result in compliance costs to change the GST treatment of past supplies. Organisations will be protected against paying underpaid GST if they have relied on GST Ruling 2006/9 (GSTR) to treat supplies as non-taxable. No GST will have been paid in acquiring the supplies, so insurers or other third party acquirers will not be disadvantaged.²

GST treatment of appropriations

- 1.6 Schedule 2 of the Bill amends the GST Act to restore the policy intent that the non-commercial activities of government entities are not subject to GST. Paragraph 9-15(3)(c) of the GST Act currently provides that payments between government related entities are not treated as consideration if the payments are specifically covered by an appropriation under Australian law. This then excludes the payments from GST.
- 1.7 The Full Federal Court considered this provision in *TT-Line Co Pty Ltd v Commissioner of Taxation*.³ The court decided that the provision will only apply where the terms of the appropriation are such that funds can only be paid to a government related entity. It will not apply where the appropriation permits a payment to either a government related entity or non-government related entity.
- 1.8 The amendments provide that, where the payment meets certain conditions, it will not be treated as consideration and will not be subject to the basic GST rules. The conditions are that the payment:
 - is made between government related entities for making a supply;

2 Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012, *Explanatory Memorandum (EM)*, pp. 9-11.

3 [2009] FCAFC 178.

- is paid under a government appropriation or pursuant to specified intergovernmental health reform arrangements; and
- satisfies a non-commerciality test.⁴

Superannuation general concessional contributions cap

- 1.9 Schedule 3 amends the *Income Tax Assessment Act 1997* (ITAA) to temporarily pause the indexation of the cap so that it will remain fixed at \$25,000 up to and including 2013-14. The pause will save \$485 million over the forward estimates, as detailed in the table below.

Table 1.1 Projected savings by pausing indexation of the cap in 2013-14

2011-12	2012-13	2013-14	2014-15
–	–	\$360m	\$125m

Source Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012, Explanatory Memorandum, p. 4.

- 1.10 The general concessional cap is currently \$25,000. It is indexed in line with average weekly ordinary time earnings, rounded down to the nearest multiple of \$5,000. Treasury estimates that, without the amendments, the cap will increase to \$30,000 in 2013-14.⁵
- 1.11 The cap is important because this is the amount of superannuation that individuals can set aside annually at the concessional tax rate of 15 per cent (paid by the super fund). Individuals can exceed the concessional cap, but pay excess contributions tax of 31.5 per cent. These further amounts are limited by the non-concessional contributions cap, which is currently set at six times the general concessional contributions cap. Amounts above the non-concessional contributions cap are subject to excess contributions tax of 46.5 per cent.
- 1.12 A transitional concessional cap of \$50,000 applies to individuals aged 50 or over. This cap is not indexed and it is scheduled to expire on 1 July 2012. The Government has announced that the transitional cap will be replaced by a \$50,000 cap for individuals with super balances of less than \$500,000. The \$50,000 threshold will be indirectly indexed by being set at \$25,000 above the general concessional cap.⁶

4 Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012, EM, pp. 19-20.

5 Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012, EM, pp. 35-37.

6 Treasury, *Concessional superannuation contribution caps for individuals aged 50 and over*, Consultation Paper, February 2011, p. 1.

- 1.13 The provisions in the Bill do not affect the indexing arrangements in the long term. The indexation provisions in section 960-285 of the ITAA will not be amended. Therefore, the provisions will allow the cap to increase by \$5,000 in 2014-15.⁷

Refund of excess superannuation concessional contributions

- 1.14 Schedule 4 establishes a system whereby individuals, who exceed the superannuation concessional cap in a given year by less than \$10,000, can have the amount refunded to them. This amount will then be subject to income tax, rather than excess contributions tax.
- 1.15 The measure is expected to reduce revenue by \$19.9 million over the forward estimates, as outlined in the table below.

Table 1.2 Projected cost to revenue by refunding excess super contributions

2011-12	2012-13	2013-14	2014-15
\$0.8m	\$13.6m	\$3.3m	\$2.2m

Source *Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012, Explanatory Memorandum, p. 5.*

- 1.16 A number of conditions will apply, some of which relate to a taxpayer's compliance record:
- the Commissioner is satisfied that the individual has excess concessional contributions for a financial year;
 - the amount of excess concessional contributions is \$10,000 or less;
 - the individual has lodged an income tax return for the relevant income year within 12 months of the end of that year, or within such longer period as the Commissioner allows; and
 - the individual does not have excess concessional contributions for an earlier financial year starting from 1 July 2011.⁸
- 1.17 The last point has been criticised as a significant limitation on the proposal. If a taxpayer exceeds the limit by a small amount, the Australian Taxation Office (ATO) can offer that this sum be returned to them, increasing their taxable income accordingly. However, if the taxpayer does

⁷ Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012, EM, p. 37.

⁸ Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012, EM, pp. 39-45.

not accept this offer, then they will not be entitled to receive any offers if they exceed the limit in future.⁹

Disclosure of superannuation information

1.18 Schedule 5 includes a further exception to the secrecy provisions in the *Taxation Administration Act 1953*. It allows the ATO to disclose superannuation information to a regulated super fund or similar body about their members' superannuation interests. This will assist these entities in finding and consolidating their members' multiple and lost super accounts.

1.19 The provisions are not expected to affect current secrecy arrangements around tax file numbers. The Explanatory Memorandum (EM) states:

... TFNs will continue to be protected by the existing provisions in the taxation laws and through the legally binding guidelines on the use, disclosure and storage of TFNs that are issued by the Office of the Australian Information Commissioner.¹⁰

1.20 The Office of the Australian Information Commissioner has been consulted on the amendments.¹¹

Payslip reporting of superannuation

1.21 Schedule 6 will require employers to report on payslips any information prescribed in the regulations about super contributions. The regulations will be made once the Bill has come into force. They are expected to require the employer to either state the amount paid, or the amount due and when it will be paid. This will enable employees to check that the payments have been made at the appropriate time.

1.22 Currently, employers are required to report on payslips either entitlements to superannuation accrued during the pay-period, or actual contributions. They are not required to report whether amounts have been paid. The legal requirement on employers is to pay super guarantee contributions within 28 days of the end of the relevant quarter. Employees may believe that listing a superannuation amount on a payslip means that it has been paid, when it may only mean that it has been accrued.

9 Max Newnham, 'Super law sleight of hand trumps fairness and equity, *Sydney Morning Herald*, 9 March 2012, p. 10.

10 Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012, EM, p. 58.

11 Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012, EM, pp. 57-60.

- 1.23 This measure is part of the Government's *Securing Super* package. The measure complements one of the other components of the package. In particular, the Government plans to legislate to require regulated super funds and retirement savings account providers to:
- notify members that they have either received or not received contributions during the quarter; and
 - maintain a web-based portal for members to consult; or
 - issue six-monthly notices to members, showing contributions made.
- 1.24 Current payslip reporting requirements are in the Fair Work legislation, which does not apply to public sector employers in some states and some unincorporated private sector employers in Western Australia. Therefore, the amendments in this schedule will be made to the *Superannuation Industry (Supervision) Act 1993*.¹²
- 1.25 The EM states that the compliance costs of this measure will be 'minimal' to 'medium'. Payroll software producers will need to add a field for the expected payment date, which employers will need to populate.¹³

Tax refunds

- 1.26 Schedule 7 amends the *Tax Administration Act 1953* to provide the Commissioner with discretion to delay paying a tax refund in order to verify the accuracy of a taxpayer's claim.
- 1.27 Until recently, the ATO's administrative practice in relation to refunds was to retain some amounts in exceptional circumstances pending verification checks. This was done on the basis that it was within the Commissioner's general powers of administration and that it was implied by the tax law. It was also seen as consistent with the requirements under the *Financial Management and Accountability Act 1997* and the requirements for the Commissioner to pay interest on refunds if a certain period had expired under the *Taxation (Interest on Overpayments and Early Payments) Act 1983*.
- 1.28 In November 2011, the Full Federal Court handed down its decision in *Commissioner of Taxation v Multiflex Pty Ltd*.¹⁴ The court found that the Commissioner is required to pay a GST refund within the time required to undertake the necessary administrative steps and to process the payment.
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12 Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012, EM, pp. 63-65.

13 Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012, EM, p. 6.

14 [2011] FCAFC 142.

There is no provision in the law that allows the Commissioner to delay the payment to undertake additional verification, even if the ATO has reservations about the claim.¹⁵

- 1.29 The new system will apply to all running balance account surpluses and other entitlements to credits under the tax law. Broadly, the Commissioner will be able to retain an amount if it would be reasonable to require verification of the taxpayer's claim. The ATO must seek to balance the interests of both taxpayers and the integrity of the revenue. Factors to be considered include:
- the likelihood of fraud or evasion;
 - the impact of retaining the amount on the entity's financial position;
 - whether retaining the amount is necessary for protecting the revenue; and
 - the time for which the Commissioner has already retained the revenue.
- 1.30 The ATO must inform the taxpayer that an amount has been retained under this provision. It may retain the amount until it would no longer be reasonable to require verification of the taxpayer's claim. The taxpayer may object to the Commissioner's decision to retain an amount under the normal complaints processes in Part IVC of the *Taxation Administration Act 1953*.¹⁶
- 1.31 The EM does not list any financial effects of the measure.¹⁷ Although difficult to quantify, it would be expected that the measure would improve the Government's financial position, by protecting the revenue, reducing the ATO's costs, and allowing the ATO to shift resources to other high-risk parts of its operations.

Background to the schedules examined in the inquiry

- 1.32 The committee received submissions on Schedules 3 to 7 and so focussed on these schedules during the inquiry. The background to these schedules is given below.

15 Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012, EM, pp. 71-72.

16 See Schedule 7 of the Bill.

17 Tax and Superannuation Laws Amendment (2012 Measures No. 1) Bill 2012, EM, pp. 6-7.

Indexation of the superannuation concessional contributions cap

- 1.33 The tax treatment of superannuation was substantially amended in 2007 with the *Tax Laws Amendment (Simplified Superannuation) Act 2007*. The then Treasurer stated in his second reading speech that the legislation would ‘cut the number of pages of superannuation law in the income tax assessment acts by over a third’.¹⁸ These changes introduced a general concessional cap of \$50,000, to be indexed annually. Indexation was based on average weekly ordinary time earnings, with a base period of the final quarter of 2006.¹⁹ The then Treasurer stated that the superannuation tax concessions would be appropriately targeted through a number of transitional caps. This included a limit of \$450,000 per person over three years on contributions from post-tax income.²⁰
- 1.34 The review, *Australia’s future tax system*, considered retirement incomes. In one of its consultation papers, the review panel stated that the superannuation caps and concessional arrangements favoured higher income earners with higher marginal tax rates. It also noted that, in 2005-06, 5 per cent of individuals accounted for 37 per cent of concessional superannuation contributions.²¹
- 1.35 The general concessional cap was changed in 2009 to the system applying today. It was reduced to \$25,000 and the base period for indexation was set to the final quarter of 2008. The original \$50,000 cap only applied to the 2007-08 and 2008-09 financial years. In his second reading speech, the Treasurer noted the opportunity to more fairly distribute government assistance in this area. The budget savings from this measure were directed to increasing the base rate for the pension.²²
- 1.36 The final reports for the *Australia’s future tax system* review were completed in December 2009 and released in May 2010. They stated that, ‘The structure of the existing tax concessions is inequitable because high income earners benefit much more from the superannuation tax

18 The Hon. Mr Peter Costello MP, Treasurer, *House of Representatives Hansard*, 7 December 2006, p. 1.

19 Sections 292-20 and 960-285 of the *Income Tax Assessment Act 1997*, as amended by the *Tax Laws Amendment (Simplified Superannuation) Act 2007*.

20 The Hon. Mr Peter Costello MP, Treasurer, *House of Representatives Hansard*, 7 December 2006, p. 2.

21 Australia’s future tax system, ‘Retirement income consultation paper, 3 – An acceptable retirement income system’, viewed on 13 March 2012 at http://taxreview.treasury.gov.au/content/ConsultationPaper.aspx?doc=html/publications/Papers/Retirement_Income_Consultation_Paper/Chapter_3.htm.

22 The Hon. Mr Wayne Swan MP, Treasurer, *House of Representatives Hansard*, 27 May 2009, p. 4443.

concessions than low-income earners'. The review made some fundamental reform recommendations, in particular that super contributions in the fund should no longer be taxed and employer contributions treated as individuals' income. However, it also recommended that an offset should be applied to all super contributions, capped at an indexed amount of \$25,000.²³

Refund of excess superannuation concessional contributions

1.37 Excess contributions tax for superannuation was introduced as part of the 2007 reforms as a way of enforcing the caps that were introduced. However, press and industry reports suggest that many taxpayers breach these limits inadvertently and can be subject to excessive penalties for doing so.²⁴

1.38 In response to a question on notice asked in the Senate, the Government gave the following reasons why taxpayers' contributions can exceed the caps:

- taxpayers failing to take into account available information when planning their contributions for a financial year
- incorrect superannuation fund reporting
- taxpayers not completing their income tax return correctly
- taxpayers not providing superannuation funds sufficient contribution information.

Specific to the concessional contribution cap:

- salary sacrifice arrangements, particularly caused by the timing of contributions made by employers. For example, contributions made in respect of one financial year not being received by the fund until the next year.

Specific to the non-concessional contribution cap:

- taxpayers not understanding the tax treatment of contributions
- taxpayers acting on professional advice
- superannuation funds not returning contributions which the fund was unable to accept at law as required.²⁵

23 Australia's future tax system, *Report to the Treasurer, Part Two, Detailed Analysis*, vol. 1, December 2009, p. 100.

24 Max Newnham, 'Penalties for excess super contributions need review' *Business Day*, viewed on 13 March 2012 at <http://www.smh.com.au/business/penalties-for-excess-super-contributions-need-review-20100408-rv8r.html>; Liz Westover, 'Excess Contributions Tax ... the saga continues', viewed on 13 March 2012 at <https://www.charteredaccountants.com.au/secure/myCommunity/blogs/lwestover/supera-nnuation-blogs/122/excess-contributions-tax-the-saga-continues>.

25 The Hon. Senator Nick Sherry, Assistant Treasurer, *Senate Hansard*, 3 March 2011, p. 1199.

- 1.39 In July 2011, the ATO published statistics on excess contributions tax, valid as at May 2011. Including the transitional period from 10 May 2006 to 30 June 2007, and thereafter, the ATO had issued 43,000 assessments for a total of \$400 million in liabilities.²⁶ Excess contributions tax, which was designed to encourage enforcement with the superannuation caps, has been criticised for becoming, in effect, a revenue collecting measure.²⁷
- 1.40 The ATO has also received a number of applications to disregard or reallocate contributions. These are set out in the table below. They demonstrate that the ATO is exercising its discretion in approximately 20 per cent of cases.

Table 1.3 Applications to disregard or reallocate contributions at 4 May 2011

	Transitional	2007-08	2008-09	2009-10
Applications received	408	1,100	225	31
Number finalised	398	857	111	10
In progress	10	243	114	21
Discretion exercised	84	146	7	Nil

Source ATO, 'Excess contributions tax statistical report' viewed on 13 March 2012 at <http://www.ato.gov.au/superfunds/content.aspx?menuid=0&doc=/content/00286671.htm&page=1&H1>

- 1.41 In its annual report for 2010-11, the ATO reported an increased workload due to superannuation excess contributions tax. In particular, it provided 7 per cent more guidance products and the number of objections, disputes and reviews it received increased by 12 per cent. The ATO attributed both of these figures to excess contributions tax.²⁸ It is possible that the reduction in the limits in 2009, commencing in July 2010, had the practical effect of putting a higher number of people at risk of breaching the limits.
- 1.42 The Institute of Chartered Accountants in Australia (ICAA) and the Self Managed Super Fund Professionals' Association of Australia (SPAA) have called for super fund regulations to be amended to allow funds to return members' excess contributions.²⁹

26 Australian Taxation Office (ATO), 'Excess contributions tax statistical report' viewed on 13 March 2012 at <http://www.ato.gov.au/superfunds/content.aspx?menuid=0&doc=/content/00286671.htm&page=1&H1>.

27 John Hewison, 'Excess superannuation contributions tax,' Hewison Private Wealth, viewed on 14 March 2012 at <http://www.hewison.com.au/live/blog/read/excess-superannuation-contributions-tax-%E2%80%93-unfair-government-revenue-raising>.

28 ATO, *Annual Report 2010-11*, pp. 76, 106.

29 Max Newnham, 'Penalties for excess super contributions need review' *Business Day*, viewed on 13 March 2012 at <http://www.smh.com.au/business/penalties-for-excess-super->

Disclosure of superannuation information

- 1.43 A number of systems already exist to help reunite super fund members with their superannuation interests. The *Superannuation (Unclaimed Money and Lost Members) Act 1999* provides for the administration of a lost members register. The aim of the register is to reunite members with their accounts before the funds become unclaimed. A number of conditions must be met for funds to become unclaimed, one of which is that the individual turns 65.
- 1.44 At 30 June 2010, the funds in the register totalled \$18.8 billion. This comprised 5.8 million member accounts. The amounts are treated like normal superannuation balances. The ATO keeps information on each account that is provided to it by super funds. If an individual provides their tax file number to the super fund, then the fund passes this on to the ATO. Matching of tax file numbers of lost super accounts with information in other ATO systems is a key method by which the ATO can reunite members with their super.
- 1.45 The ATO has a number of tools and strategies by which it aims to reunite individuals with their super accounts. SuperSeeker is a web-based search tool that allows individuals to enter their details, which are then matched against the lost members register. Individuals must first complete a proof of identity check by entering details such as their tax file number.
- 1.46 If an individual makes a successful SuperSeeker search, they receive a copy of a portability form with their personal details pre-filled. The individual then manually fills in the remainder of the form, such as the details of the fund to which their amounts should be consolidated, and sends it to the relevant super fund. Blank portability forms are also separately available. The value of the portability form to date is unclear. Amendments through the *Tax Laws Amendment (2011 Measures No. 9) Act 2012* have been made to allow this process to be more streamlined and for the ATO to do more of the work on behalf of the individual.
- 1.47 SuperMatch is an electronic commerce interface search tool which allows super funds to conduct bulk searches of their members' details against data on the register, the superannuation guarantee system and the superannuation holding account. Funds must sign an agreement with the ATO and have a digital certificate and ATO authorisation to access SuperMatch. Funds regard SuperMatch as a useful tool for finding lost accounts.

- 1.48 The ATO also conducts marketing and telephone and letter campaigns to increase individuals' awareness of lost superannuation and how it can be reclaimed.³⁰

Payslip reporting of superannuation

- 1.49 In December 2009, the review panel completed its final report of the review, *Australia's future tax system*. The panel found that there was a need to improve people's awareness of the retirement income system to improve the outcomes they get from it. The report recommended that employers should report when super contributions are made to employees.³¹
- 1.50 In March 2010 the Inspector-General of Taxation (IGT) published a report, *The Review into the ATO's administration of the Superannuation Guarantee Charge*. In this report he found that insolvent employers were responsible for approximately \$600.8 million owed to the ATO under the superannuation guarantee charge (SGC) and that most of this debt had been written-off as lost employee retirement savings.³²
- 1.51 The report also found that the groups most affected by the problem were employees of micro businesses, contracted and casual employees, younger employees and employees in particular sectors – the arts and recreation services; the transport, postal and warehousing sectors; accommodation and food services; and the agriculture, forestry and fishing sector. The mean salary and wages across each of these high risk sectors is less than \$30,000 a year, which indicated that those most at risk of having insufficient superannuation contributed on their behalf by employers were low-income employees.³³
- 1.52 The IGT stated that he had received many submissions on the growing practice of employers misclassifying workers as subcontractors, rather than employees, to avoid paying superannuation.³⁴ In addition, over 70 per cent of complaints concerning superannuation guarantee

30 Australian National Audit Office (ANAO), *Administration of the Superannuation Lost Members Register*, February 2011, Audit Report No. 31, 2010-11, pp. 14-15, 98-120.

31 Recommendation 23(b), *Australia's future tax system, Report to the Treasurer, Part Two, Detailed Analysis*, vol. 1, December 2009, pp. 128-30.

32 Inspector General of Taxation (IGT), *The Review into the ATO's administration of the Superannuation Guarantee Charge*, March 2010, p. 3.

33 IGT, *The Review into the ATO's administration of the Superannuation Guarantee Charge*, March 2010, p. 4.

34 IGT, *The Review into the ATO's administration of the Superannuation Guarantee Charge*, March 2010, p. 4.

obligations come from ex-employees. There was also anecdotal evidence to suggest that many employees are concerned that, if they query their employer about their superannuation guarantee entitlement or lodge a complaint with the ATO, they could either lose their job or no longer be given work.³⁵ Finally, the IGT noted that:

A delay in triggering ATO audit activity significantly increases the likelihood of non-payment of SGC debt (requiring more costly debt recovery action) and irrecoverability through insolvency. It also hampers the ATO's and government's efforts to maintain a level playing field amongst employers and ensure that compliant employers do not face a financial disadvantage against non-compliant competitors.³⁶

- 1.53 In June 2010, the review panel of the *Super System Review* finalised its reports. It endorsed the work of the *Australia's future tax system* review. The panel recommended that employees' payslips should detail the superannuation amounts to be paid.³⁷ In the 2010 election campaign, the Government endorsed this recommendation of the *Super System Review* in its *Securing Super* package.³⁸
- 1.54 In February this year, Treasury conducted consultations on an exposure draft of Schedule 6. Some comments provided by the Institute of Certified Bookkeepers (ICB) and the Association for Payroll Specialists included:
- a start date of July 2012 would be too early for businesses and payroll software developers to make the necessary changes;
 - compliance costs are excessive, given the large proportion of businesses who do the right thing;
 - mostly, employers are only required to pay super for employees who earn over \$450 a month. For mid-month payslips for some employees, their employer will not know if they will be paying them superannuation and so cannot provide an expected payment date;
 - businesses may choose to simplify the process and use the default approach of reporting the last day of the required super payment

35 IGT, *The Review into the ATO's administration of the Superannuation Guarantee Charge*, March 2010, p. 5.

36 IGT, *The Review into the ATO's administration of the Superannuation Guarantee Charge*, March 2010, p. 6.

37 *Super System Review, Final Report: Part Two, Recommendation Packages*, June 2010, pp. 297-98.

38 Australian Labor, 'Protecting Workers' Entitlements Package,' viewed on 14 March 2012 at <http://www.alp.org.au/protecting-workers-entitlements-package/>.

obligation, i.e. the 28th day of the first month following each quarter;
and

- it may be more practical to require employers to provide employees with proof of payment of superannuation at least once a quarter (this is similar to one of the proposals in the Government's *Securing Super* package).³⁹

- 1.55 Treasury responded to some of these points in its summary of the consultations. In relation to the start date, Treasury stated that this would depend on when the regulations are made, and it will be considered during this process. In relation to the \$450 cutoff, this will also be considered in the regulations, but the solution is likely to be that the employer should report the contribution in the later pay period.⁴⁰
- 1.56 Treasury also noted that previous consultations had considered whether employers should report on payslips when super contributions had actually been paid during a pay period. However, this was rejected because of high cost software changes and possible confusion for employees, who would be receiving information on both accrued and actual contributions. The Government has announced that, provided payroll system costs are not significant, payslips will report actual contributions paid from 1 July 2013.⁴¹

Tax refunds

- 1.57 The ATO has for at least a decade retained some tax refunds if significant risks were raised about the integrity of a taxpayer's claims. The idea that this practice may not be supported in the law is a recent issue. For example, the IGT conducted a comprehensive review into GST refunds in 2004 and 2005 and did not consider the legality of this practice.⁴² The Australian National Audit Office (ANAO) considered the administration of high risk income tax refunds for individuals and micro enterprises in

39 Institute of Certified Bookkeepers (ICB), 'Submissions: Exposure Draft - Payslip Reporting of Superannuation Contributions', Treasury, viewed on 14 March 2012 at <http://www.treasury.gov.au/contentitem.asp?NavId=066&ContentID=2320>.

40 Treasury, *Superannuation: Payslip Reporting: Summary of Consultation Process*, pp. 2, 4, viewed on 14 March 2012 at http://www.treasury.gov.au/documents/2310/PDF/Consultation_Summary.pdf.

41 Treasury, *Superannuation: Payslip Reporting: Summary of Consultation Process*, p. 1, viewed on 14 March 2012 at http://www.treasury.gov.au/documents/2310/PDF/Consultation_Summary.pdf.

42 IGT, *Review of Tax Office administration of GST refunds resulting from the lodgment of credit BASs*, January 2005.

2007 and also made no comment about the legality of the ATO's approach.⁴³

Committee objectives and scope

- 1.58 The objective of the inquiry is to investigate the adequacy of the Bill in achieving its various policy objectives and, where possible, identify any unintended consequences.

Conduct of the inquiry

- 1.59 Details of the inquiry were placed on the committee's website. A media release announcing the inquiry and seeking submissions was issued on Monday 5 March 2012.
- 1.60 Nine submissions and eight exhibits were received. These are listed at Appendix A.
- 1.61 Public hearings were held in Canberra on Friday 16 March 2012. A list of the witnesses who appeared at the hearing is available at Appendix B. The submissions and transcript of evidence were placed on the committee's website at <http://www.aph.gov.au/house/committee/economics/index.htm>.

43 Australian National Audit Office (ANAO), *Administration of High Risk Income Tax Refunds in the Individuals and Micro Enterprises Market Segments*, November 2007, Audit Report No. 12, 2007-08.