

# Chapter 1

## Introduction and overview of the bill

1.1 On 25 September 2014, the Senate referred the provisions of the Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014 (the bill) to the Senate Economics Legislation Committee for inquiry and report by 28 October 2014.<sup>1</sup>

1.2 The bill, which contains four schedules, proposes to amend the *Income Tax Assessment Act 1997* (ITAA 1997), the *Taxation Administration Act 1953* and the *Shipping Reform (Tax Incentives) Act 2012* to:

- abolish the mature age worker tax offset (schedule 1);
- abolish the seafarer tax offset (schedule 2);
- reduce the rates of the tax offset available under the research and development tax incentive (R&D tax offset) by 1.5 per cent (schedule 3); and
- update the list of specifically listed deductible gift recipients (schedule 4).

1.3 The Selection of Bills Committee stated that the bill was referred to the Economics Legislation Committee to 'seek key stakeholder feedback on the impact of the legislation on research and development'.<sup>2</sup>

### Conduct of the inquiry

1.4 The committee advertised the inquiry on its website and wrote to relevant stakeholders and other interested parties inviting submissions. The committee received 24 submissions, including one confidential submission, which are listed in the Appendix. The committee did not hold a public hearing for this inquiry.

1.5 The committee thanks all of the individuals and organisations that contributed to this inquiry.

### Structure of this report

1.6 This report comprises two chapters:

- chapter 1 provides an overview of the bill and detail about the consideration of the bill by other parliamentary committees; and
- chapter 2 discusses the issues and concerns about the bill that have been raised in public submissions received by the committee.

### Overview

#### *The 2014–15 Budget context*

1.7 In the 2014–15 Budget, the government outlined its Economic Action Strategy. The government committed to 'repairing the Budget' and stated it was taking

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1 *Journals of the Senate*, no. 56 of 2014–15 (25 September 2014), p. 1506.

2 Selections of Bills Committee, *Report No. 12 of 2014*, September 2014, Appendix 11.

steps to 'ensure the Government is living within its means, and to rein in the age of entitlement'.<sup>3</sup>

1.8 In his second reading speech, the Hon Steven Ciobo MP, Parliamentary Secretary to the Treasurer, stated:

This bill represents another chapter in the government's Economic Action Strategy.

We inherited from Labor an unsustainable budget position. The measures in this bill will return around \$1.4 billion to the budget over the forward estimates.<sup>4</sup>

### ***The schedules of the bill***

#### *Schedule 1—abolishing the mature age worker tax offset*

1.9 Schedule 1 proposes to repeal Subdivision 61-K of the ITAA 1997 to abolish the mature age worker tax offset (MAWTO).

1.10 MAWTO is a concessional tax offset which was introduced in 2004–05. The offset was intended to provide an incentive to mature age workers to remain in the workforce. The maximum tax offset available for eligible mature age workers is \$500 per year. When MAWTO was introduced it was available to taxpayers who were aged 55 or over, and who had a net income from working. The former government started to phase out MAWTO in July 2012 by restricting access to taxpayers born before 1 July 1957.<sup>5</sup>

1.11 The proposal to abolish MAWTO was announced in the 2014–15 Budget. At the same time, the government announced that it would redirect savings from this measure to the government's *Restart* program. Through the *Restart* program, from 1 July 2014 a payment of up to \$10,000 will be available to employers who hire a mature age job seeker (aged 50 years or over) who has been receiving income support for a minimum of six months.<sup>6</sup>

#### *Schedule 2—abolishing the seafarer tax offset*

1.12 Schedule 2 of the bill proposes to amend the ITAA 1997 to abolish the seafarer tax offset from 1 July 2015.

1.13 The seafarer tax offset was introduced in 2012 as part of a policy reform package, *Stronger Shipping for a Stronger Economy*. The aim of the reform package

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3 The Hon Joe Hockey MP, Treasurer, and Senator the Hon Mathias Cormann, Minister for Finance, *2014–15 Budget Joint Media Release*, 13 May 2014, <http://jbh.ministers.treasury.gov.au/media-release/021-2014/> (accessed 19 October 2014).

4 The Hon Steven Ciobo MP, Parliamentary Secretary to the Treasurer, Second Reading Speech, *House of Representatives Hansard*, 4 September 2014, p. 4.

5 Explanatory Memorandum, p. 7.

6 Australian Government, *2014–15 Budget: Budget Paper No. 2*, May 2014, pp. 14 and 97; Explanatory Memorandum, p. 8.

was to make the Australian shipping industry more internationally competitive and help remove barriers to investment in Australian shipping.<sup>7</sup>

1.14 The intention of the seafarer tax offset was to encourage companies to employ Australian seafarers. The offset is provided to companies for salaries, wages and allowances paid to an Australian resident who is employed on overseas voyages on certified vessels for at least 91 days in an income year.<sup>8</sup>

1.15 The Explanatory Memorandum noted that since its introduction in 2012, fewer than 20 taxpayers have claimed the seafarer tax offset annually, in respect of, in total, around 250 employees. The Explanatory Memorandum goes on to state that:

The low level of claims for the seafarer tax offset indicates that it has not achieved its policy intent. It has not been an effective stimulant for the employment of Australian seafarers on overseas voyages.<sup>9</sup>

1.16 In his second reading speech, the Hon Stephen Ciobo MP stated:

The current regulatory regime for shipping imposes a cost on shippers and their customers. Because it is a part of a current shipping regulation, the Seafarer Tax Offset effectively imposes a cost on all Australian taxpayers.<sup>10</sup>

1.17 The government announced the proposal to abolish the seafarer tax offset in the 2014–15 Budget. The savings from this measure 'will be redirected by the Government to help repair the Budget and fund other policy priorities'.<sup>11</sup>

1.18 The Hon Stephen Ciobo MP told the Parliament that removing this offset was 'expected to save the government \$12 million over four years. And that is another small step towards repairing the budget'.<sup>12</sup>

### *Schedule 3—rates of the R&D tax offset*

1.19 Schedule 3 of the bill proposes to amend the ITAA 1997 to reduce the rates of the tax offset available under the research and development tax incentive by 1.5 per cent from 1 July 2014.

1.20 In its current form,<sup>13</sup> the incentive provides:

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7 Explanatory Memorandum, *Tax Laws Amendment (Shipping Reform) Bill 2012*, p. 5.

8 Explanatory Memorandum, p. 13.

9 Explanatory Memorandum, p. 14.

10 The Hon Steven Ciobo MP, Parliamentary Secretary to the Treasurer, Second Reading Speech, *House of Representatives Hansard*, 4 September 2014, p. 4.

11 Australian Government, *2014–15 Budget: Budget Paper No. 2*, May 2014, p. 212.

12 The Hon Steven Ciobo MP, Parliamentary Secretary to the Treasurer, Second Reading Speech, *House of Representatives Hansard*, 4 September 2014, p. 4.

13 The *Tax Laws Amendment (Research and Development) Bill 2013* is currently before the Senate. For further information about the amendments proposed in this bill, refer to the relevant report of this committee: Senate Economics Legislation Committee, *Tax Laws Amendment (Research and Development) Bill 2013*, 17 March 2014.

- a 45 per cent refundable tax offset to eligible entities with a turnover of less than \$20 million, and which are not controlled by income tax-exempt entities, for their expenditure on eligible research and development activities in Australia; and
- a 40 per cent non-refundable tax offset to all other eligible entities for their expenditure on eligible research and development activities in Australia.<sup>14</sup>

1.21 The proposed amendment will reduce the higher (refundable) rate of the tax offset from 45 per cent to 43.5 per cent and the lower (non-refundable) rate of the tax offset will be reduced from 40 per cent to 38.5 per cent.<sup>15</sup>

1.22 This measure was announced in the 2014–15 Budget, reducing the relative value of the research and development tax incentive in line with the government's commitment to cut the company tax rate by 1.5 per cent from 1 July 2015. The Budget papers stated:

The gain to revenue and savings from this measure will be redirected by the Government to repair the Budget and fund policy priorities.

This measure is estimated to provide a gain to the Budget of \$620.0 million in fiscal balance terms over the forward estimates period. In underlying cash terms, the gain to the Budget is \$550.0 million over the forward estimates period.<sup>16</sup>

1.23 The Explanatory Memorandum notes that the research and development tax incentive is the 'primary mechanism by which the Commonwealth seeks to encourage companies to undertake research and development activities in Australia'.<sup>17</sup>

1.24 In his second reading speech, the Hon Stephen Ciobo MP, Parliamentary Secretary to the Treasurer, stated:

Changing the offset will affect neither the eligibility of companies for the R&D tax incentive nor the way the companies claim the incentive.

Nor will the changes affect the administration of the R&D tax incentive more generally.<sup>18</sup>

1.25 The Hon Stephen Ciobo MP went on to state:

If this measure were not enacted, the cut to the company tax rate would entail an increase in the benefit provided by the R&D tax incentive relative to the normal treatment of business expenses.<sup>19</sup>

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14 Explanatory Memorandum, p. 17.

15 Explanatory Memorandum, p. 17.

16 Australian Government, *2014–15 Budget: Budget Paper No. 2*, May 2014, p. 18.

17 Explanatory Memorandum, p. 17.

18 The Hon Steven Ciobo MP, Parliamentary Secretary to the Treasurer, Second Reading Speech, *House of Representatives Hansard*, 4 September 2014, p. 5.

19 The Hon Steven Ciobo MP, Parliamentary Secretary to the Treasurer, Second Reading Speech, *House of Representatives Hansard*, 4 September 2014, p. 5.

1.26 The Department of Industry noted that as part of the process of Budget repair, the government sought savings from a wide range of areas:

As part of this process, the Government made a difficult decision to reduce the rate of benefit to all companies under the R&D Tax Incentive effective from 1 July 2014, subject to legislative processes.<sup>20</sup>

1.27 With regard to consultation, the Explanatory Memorandum stated:

Targeted confidential consultation was undertaken on exposure draft legislation with affected stakeholder bodies. No concerns were raised during consultation.<sup>21</sup>

#### *Schedule 4—deductable gift recipients*

1.28 Schedule 4 proposes to amend the ITAA 1997 to update the list of specifically listed deductible gift recipients (DGRs).

1.29 DGR status assists eligible entities and funds to attract public financial support for their activities. The income tax law allows taxpayers to claim income tax deductions for gifts of two dollars or more to DGRs.<sup>22</sup>

1.30 The amendments proposed in schedule 4 will add Australian Schools Plus Ltd, East African Fund and the Mindaroo Foundation Trust as specifically listed DGRs.<sup>23</sup>

### **Consideration of the bill by other committees**

#### *Senate Scrutiny of Bills Committee*

1.31 The Senate Standing Committee for the Scrutiny of Bills assesses legislative proposals against a set of accountability standards that focus on the effect of proposed legislation on individual rights, liberties and obligations, and on parliamentary propriety. The Scrutiny of Bills Committee—which reported on the bill in its twelfth *Alert Digest* of 2014—focused on the retrospective application of the proposed amendments. The Scrutiny of Bills Committee noted that the proposed measures in schedule 1—abolishing the mature age worker tax offset and schedule 3—rates of the R&D tax offset, commence on 1 July 2014. The Scrutiny of Bills Committee noted that both measures were announced in the 2014–15 Budget, and made no further comment on the bill.<sup>24</sup>

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20 Department of Industry, 'Research and Development Tax Incentive', <http://www.industry.gov.au/science/policy/Pages/RDTaxIncentive.aspx> (accessed 20 October 2014).

21 Explanatory Memorandum, p. 19.

22 Explanatory Memorandum, p. 23.

23 Explanatory Memorandum, p. 23; the Explanatory Memorandum provides further information on each of these entities, pp. 23–24.

24 Scrutiny of Bills Committee, *Alert Digest No.12 of 2014*, p. 12.

***Parliamentary Joint Committee on Human Rights***

1.32 One of the functions of the Parliamentary Joint Committee on Human Rights (PJCHR) is to examine bills for compatibility with human rights, and to report to both Houses of the Parliament on that issue.<sup>25</sup> The PJCHR considered that the bill was 'compatible with human rights'.<sup>26</sup>

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25 *Human Rights (Parliamentary Scrutiny) Act 2011*, s. 7(a).

26 Parliamentary Joint Committee on Human Rights, *Examination of legislation in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011: Twelfth Report of 44th Parliament*, September 2014, p. 22.