

Superannuation (Government Co-contribution  
for Low Income Earners) Bill 2003

Superannuation (Government Co-contribution  
for Low Income Earners) (Consequential  
Amendments) Bill 2003

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Superannuation (Government Co-contribution for Low  
Income Earners) Bill 2003

Superannuation (Government Co-contribution for Low  
Income Earners) (Consequential Amendments) Bill 2003

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Economics, Commerce and Industrial Relations Group  
19 June 2003

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# **Superannuation (Government Co-contribution for Low Income Earners) Bill 2003**

## **Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003**

**Date Introduced:** 29 May 2003

**House:** House of Representatives

**Portfolio:** Treasury

**Commencement:** The Superannuation (Government Co-contribution for Low Income Earners) Bill 2003 commences on Royal Assent. The Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003 commences on Royal Assent except for the amendments made by items 16 and 17 of Schedule 1 which commence on the later of Royal Assent, or immediately after the commencement of item 48 of Schedule 1 to the proposed Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Act (now proposed to be on 1 July 2003).

### **Purpose**

The purpose of the Superannuation (Government Co-contribution for Low Income Earners) Bill 2003 (S(GCLIE) Bill 2003) is to provide for superannuation contributions to be made by Government for the benefit of low income earners.

The purpose of the Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003 (S(GCLIE)(CA) Bill 2003) is to make amendments consequential to the S(GCLIE) Bill 2003.

### **Background**

General information on the Federal Government's co-contribution for low income earners proposal was provided in the Bills Digest for the original Bill for this measure, the

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[Superannuation \(Government Co-contribution for Low Income Earners\) Bill 2002](#) (the S(GCLIE) Bill 2002).<sup>1</sup>

The S(GCLIE) Bill 2002 was introduced with the Superannuation Legislation Amendment Bill 2002 (the SLA Bill 2002) which included amendments consequential to the S(GCLIE) Bill 2002 and the reduction in the superannuation surcharge rate. These two bills were last debated in the Senate on 18 November 2002 in cognate debate.

To attempt to meet its 2001 Election commitment to reduce the superannuation surcharge rate and introduce the Government co-contribution for low income earners the Government has split the SLA Bill 2002 into the Superannuation (Surcharge Rate Reduction) Amendment Bill 2003 and the S(GCLIE)(CA) Bill 2003. This will allow the S(GCLIE) Bill 2003 and the S(GCLIE)(CA) Bill 2003 to be debated separately from the surcharge rate reduction bill.

The S(GCLIE) Bill 2003 introduces a Government co-contribution that will replace the low income superannuation rebate (the LISR). The LISR is:

- payable to an employee who receives any form of employer superannuation support (but is not a 'self employed person')
- a tax rebate of up to \$100 for personal contributions made to a complying superannuation fund
- payable to employees who have assessable (i.e. gross) income less than \$31 000
- calculated as ten per cent of the lesser of:
  - \$1000 reduced by 25 cents for each dollar of the taxpayer's assessable income over \$27 000, or
  - the contribution actually made.<sup>2</sup>

### **2001 Election: Coalition Promises on Superannuation**

During the 2001 election campaign, the Government released *A Better Superannuation System*<sup>3</sup> policy containing 13 proposed reforms to superannuation, including a promise to replace the LISR with a more generous Government co-contribution for low income earners.

### **2002-03 Budget Announcement**

The 2002-03 Budget provided further details about the implementation of these proposals. The following sections are reproductions of the Budget announcements on the Government co-contribution.

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***A Better Superannuation System — Government superannuation co-contribution for low income earners***

***Expenses (\$m)***

|                            | 2002-03 | 2003-04 | 2004-05 | 2005-06 |
|----------------------------|---------|---------|---------|---------|
| Australian Taxation Office | -       | 95.0    | 100.0   | 105.0   |

***Explanation***

From 1 July 2002, a Government superannuation co-contribution will be introduced in place of the existing rebate for personal superannuation contributions made by eligible low income earners. The co-contribution will match personal undeducted contributions by low income earners made on or after 1 July 2002.

A maximum co-contribution of \$1,000 will be payable in respect of individuals whose assessable income and reportable fringe benefits do not exceed \$20,000 per annum. The maximum co-contribution will be reduced by 8 cents for each dollar of assessable income and reportable fringe benefits over \$20,000 (up to \$32,500). The co-contribution will be treated as an undeducted contribution for tax purposes.

To be eligible for the co-contribution, an individual must not be aged 71 or more and must be ineligible to claim a tax deduction for their personal contributions. Persons who receive spouse, but not employer, superannuation support will be eligible for a tax deduction for their personal contributions.

See the related expense measure titled *A Better Superannuation System — Government superannuation co-contribution for low income earners — implementation and administration* and also the related revenue measure titled *A Better Superannuation System — replacement of the rebate for personal superannuation contributions* in the Treasury portfolio.<sup>4</sup>

***A Better Superannuation System — replacement of the rebate for personal superannuation contributions***

***Revenue (\$m)***

|                            | 2002-03 | 2003-04 | 2004-05 | 2005-06 |
|----------------------------|---------|---------|---------|---------|
| Australian Taxation Office | -       | 10.0    | 10.0    | 10.0    |

***Explanation***

From 1 July 2002, the existing rebate for personal undeducted superannuation contributions will be replaced with a more generous Government co-contribution. The Government co-contribution will match personal undeducted superannuation

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contributions made by eligible low income earners up to a maximum of \$1,000 a year depending on the individual's level of income and contributions.

Low income earners are currently entitled to a maximum rebate of \$100 in respect of personal undeducted superannuation contributions. Eligible persons will still be able to claim the rebate in respect of contributions made up to 30 June 2002.

See also the related expense measures titled A Better Superannuation System — Government superannuation co-contribution for low income earners and A Better Superannuation System — Government superannuation co-contribution for low income earners — implementation and administration in the Treasury portfolio.<sup>5</sup>

The Explanatory Memorandum for these Bills updates the figures included in the 2002-03 Budget Papers. The financial impact is now expected to be a cost to revenue of \$115 million in 2003-04, \$125 million in 2004-05 and \$115 million in 2005-06.<sup>6</sup>

### **Position of significant interest groups/press commentary**

Superannuation expert Dr Vince FitzGerald has proposed changes to the Government co-contribution that may increase its impact. Dr FitzGerald suggested that reducing the Government co-contribution from a dollar for dollar basis to 50 cents for each dollar contributed could enable the level of income earners targeted to increase the income range upward from the Government's proposed \$20 000 to \$30 000.<sup>7</sup>

Under Dr FitzGerald's proposal, a woman returning to the workforce at age 45, earning \$35 000 a year, and who works for 15 years until retirement at age 60 could improve her retirement income from \$15 681 a year (or 58.6 per cent of pre-retirement consumption expenditure) to \$17 371 a year (or 64.9 per cent of pre-retirement consumption expenditure) through 15 years of voluntary contributions at \$1000 a year with a co-contribution of \$500 a year. Dr FitzGerald also claims that under his proposal, improved levels of adequacy could be achieved for a cost not much higher than the estimated cost of the co-contributions scheme in the 2002 Federal Budget. He claims that a scheme offering \$1 for \$2 up to annual income of \$30 000 would cost \$102 million a year for total extra contributions of \$251 million a year. A scheme offering \$1 for \$2 up to annual income of \$40 000 would cost \$158 million a year for total extra contributions of \$371 million a year.<sup>8</sup>

In February 2003 the Association of Superannuation Funds of Australia (ASFA) included in its 2003-04 Pre-Budget Submission a recommendation that the Government's 2001 election promise to provide a co-contribution for low and middle income earners be passed by the Parliament and extended to cover more middle income earners.<sup>9</sup> ASFA's preferred option involves extending the income range to \$60 000 and placing a cap of \$1000 on the amount of contributions subject to a 50 cents in the dollar co-contribution from the Government. ASFA estimated that the cost to revenue would be \$240 million and this could be offset by scaling back the proposed reduction of the surcharge rate.<sup>10</sup> This recommendation, along with other suggested compromises included in ASFA's 2003-04

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Pre-Budget Submission to progress the passage the Government's other superannuation legislation awaiting debate in the Senate, was rejected by the Government.<sup>11</sup>

### **Pros and cons of the Government co-contribution**

The following arguments are based on the assumption that a Government co-contribution is one possible method of increasing the retirement savings of low income earners.

#### **Advantages**

- Free money for low income earners. The S(GCLIE) Bill 2003 will improve the retirement income of lower income earners. Compulsory superannuation (in particular the Superannuation Guarantee system) was designed to improve the retirement income of people beyond what would be received on the age pension alone. The S(GCLIE) Bill 2003 targets low income earners, those persons most likely to receive an age pension, and improves their retirement income.
- The S(GCLIE) Bill 2003 improves the vertical equity in the superannuation system. It provides a targeted incentive for lower income taxpayers, particularly those earning less than \$20 000 per year, who make personal superannuation contributions. For every dollar up to \$1000 they contribute to a superannuation fund, the Government will provide a co-contribution on a dollar-for-dollar basis. Persons earning up to \$32 000 will also benefit.
- The S(GCLIE) Bill 2003 minimises the impact on superannuation funds by largely using existing superannuation reporting systems<sup>12</sup> to obtain the information required to determine eligibility for a Government co-contribution.
- The S(GCLIE) Bill 2003 does not impose any additional costs or burdens on low income earners as it uses existing reporting systems to determine who is eligible for a Government co-contribution.

#### **Disadvantages**

- The S(GCLIE) Bill 2003 narrows the tax base. It abolishes a relatively inexpensive rebate (costing \$10 million per year) and replaces it with a Government superannuation co-contribution scheme initially costing \$115 million in the 2003–04 year – an increased outlay of \$105 million.
- The S(GCLIE) Bill 2003 does not enhance horizontal equity. Different taxpayers receive different relative advantages by saving through superannuation. The Government's proposed major superannuation reforms to date<sup>13</sup> have been the superannuation surcharge (a tax on high income earners) and the Government co-contribution (a hand-out for low income earners). Superannuation policy has been based on a kind of 'Robin Hood' principle (take from the rich and give to the poor) rather than detailed economic arguments.

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- The S(GCLIE) Bill 2003 entrenches aspects of the superannuation surcharge by using its reporting system in the collection of information for assessing entitlement to Government co-contribution. The superannuation surcharge has been criticised for its complex administration, clumsy assessment procedures and on-going administration costs that are borne not just by high income earners, but all superannuation fund members.<sup>14</sup> Basing the Government co-contribution information provisions on the superannuation surcharge information collection and reporting mechanisms entrenches a much maligned and inefficient surcharge administration system.
- Additional costs on superannuation funds. Despite largely using existing superannuation reporting systems, the S(GCLIE) Bill 2003 will require superannuation funds to change their systems to report personal superannuation contributions to the Australian Taxation Office. Some defined benefit superannuation funds will have to change their rules to permit the acceptance of Government co-contributions.<sup>15</sup>

## Main Provisions

### Superannuation (Government Co-contribution for Low Income Earners) Bill 2003

The S(GCLIE) Bill 2003 is comprised of nine parts, each of which is discussed below.

#### Calculating the Government co-contribution

**Proposed Part 2** of the S(GCLIE) Bill 2003 sets out the details of who is eligible for a Government co-contribution, and the amount of the co-contribution.

**Proposed subsection 6(1)** provides that a Government co-contribution is payable in respect of a person if:

- the person makes an 'eligible personal superannuation contribution' during an income year, and
- the person has employer-supported superannuation for the income year, and
- the person's 'total income' for the income year is less than \$32 500, and
- an income tax return for the person has been lodged, and
- the person is less than 71 years old at the end of the income year, and
- the person does not hold an eligible temporary resident visa at any time during that year of income.

**Proposed subsection 6(2)** defines when a person has employer-supported superannuation. A person has employer-supported superannuation for a year of income when they are not

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an eligible person as defined in section 82AAS(2) of the *Income Tax Assessment Act 1936* (ITAA 1936). The definition of eligible person in section 82AAS of the ITAA 1936 is being amended by the S(GCLIE)(CA) Bill 2003. (Refer to the explanation of **item 1** in the 'Superannuation (Government Co-contribution Low Income Earners) (Consequential Amendments) Bill 2003' section below for an explanation of the amendment to the definition of an eligible person.)

**Proposed section 7** defines 'eligible personal superannuation contribution' as a contribution made after 1 July 2002 to a complying superannuation fund or retirement savings account (RSA).

**Proposed section 8** defines 'total income' as the sum of a person's assessable income and reportable fringe benefits for the income year.

The result of the definitions in **proposed subsection 6(2) and section 7** will be that for a year of income a person will be eligible to receive a Government co-contribution when this Bill is enacted only when they meet the conditions in **proposed subsection 6(1)** including where:

- their employer has made a contribution on their behalf, and
- they have also made the personal contributions.

**Proposed section 9** establishes a general rule that the Government co-contribution is equal to the sum of the 'eligible personal superannuation contributions' the person makes in an income year. This general rule is subject to **proposed sections 10, 11, 12, 21, 22 and 23**.

**Proposed section 10** sets the maximum Government co-contribution at \$1000 for total incomes of \$20 000 and less. For persons with total income between \$20 000 and \$32 500, the \$1000 maximum is reduced by 8 cents for each dollar by which the person's total income exceeds \$20 000. **Proposed section 10** is subject to **proposed sections, 11, 12, 21, 22 and 23**.

**Proposed section 11** provides that if the Government contribution calculated under **proposed section 9 and 10** is less than \$20, the amount of Government co-contribution is to be increased to \$20.

**Proposed section 12** enables the Government co-contribution to be increased by an interest component if the Government co-contribution is paid late. The interest is calculated on:

- the amount of Government co-contribution
- the period from the payment date for the Government co-contribution until the day on which the Commissioner of Taxation (the Commissioner) first makes a Government co-contribution payment, and

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- on a daily basis using a rate specified in the regulations.

### **Amount of Government co-contribution**

How the Commissioner determines whether a Government co-contribution is payable to a person is covered by **proposed Part 3**.

**Proposed section 13** provides that the Commissioner must determine that a Government co-contribution can be paid to a superannuation fund if the person is entitled to a Government co-contribution. Regulations may be made to prescribe the time in which such determinations are to be made.

In deciding whether to make such a determination, **proposed section 14** requires that the Commissioner have regard to the income tax return lodged for the person for the income year and information about contributions made to a complying superannuation fund or RSA under superannuation surcharge legislation.<sup>16</sup> This enables the Commissioner to determine whether the person has employer provided superannuation support using the employer contributed amounts reported by providers under those Acts. In essence, the Government co-contribution 'piggy-backs' off the information provided under surcharge legislation. In making a determination, the Commissioner can also use information provided in statements given under **proposed sections 26, 30 and 31**.

### **Payment of the Government co-contribution**

How a Government co-contribution is paid, namely to whom and when it is to be paid, as well as the information that will be given when a co-contribution is paid, is covered by **proposed Part 4**.

**Proposed section 15** provides that where the Commissioner has determined that a Government co-contribution is to be paid, the Commissioner must determine whether the co-contribution is to be paid to a member's account in a complying superannuation fund, RSA, the Superannuation Holding Accounts Reserve (SHAR), the person or their legal representative. **Proposed section 16** requires superannuation fund trustees and RSA providers to repay Government co-contributions to the Commonwealth (and provide the Commissioner prescribed information) if the trustee or RSA provider is unable to credit the member's account with the co-contribution. Failure to comply is an offence of strict liability.

The Commissioner must also give information in relation to the co-contribution at the time it is paid to the trustee of a complying superannuation fund, RSA provider, the person or their legal representative (**proposed section 18**).

### **Underpayments and overpayments**

Overpayments and underpayments of Government co-contributions are covered by **proposed Part 5** of the S(GCLIE) Bill 2003.

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In some instances, the Commissioner may make a co-contribution less than the correct amount, that is, an underpayment (**proposed subsection 19(2)**). If the Commissioner is satisfied that there has been an underpayment, the amount of underpayment must be determined and then paid to the trustee of a complying superannuation fund, RSA provider, the person or their legal representative, or SHAR (**proposed subsections 19(1) (3) and (4)**). The Commissioner must also determine which account the underpaid amount is to be paid to (**proposed subsection 19(5)**). Regulations may also prescribe the times within which the determination is to be made (**proposed subsection 19(8)**).

**Proposed section 20** requires superannuation fund trustees and RSA providers to repay underpaid amounts to the Commonwealth (and provide the Commissioner prescribed information) if the trustee of RSA provider is unable to credit the underpaid amount member's account. Failure to comply is an offence of strict liability.

**Proposed section 21** enables the Government co-contribution to be increased by an interest component if the underpaid amount is paid late. The interest is calculated on:

- the underpaid amount that is not paid by its payment date
- the period from the payment date for the underpaid amount until the day on which it is paid in full, and
- on a daily basis using a rate specified in the regulations.

In some instances, the Commissioner may make a co-contribution greater than the correct amount, or make a co-contribution to a person not entitled to such a payment for that income year. Such a payment is called an overpayment (**proposed subsection 24(2)**). If the Commissioner is satisfied that there has been an overpayment, the amount of overpayment must be recovered by one of the following methods (**proposed subsection 24(3)**):

- deducting the whole or part of the amount overpaid from any Government co-contribution
- debiting the whole or part of the amount overpaid from an account of the person in the SHAR
- recovering the whole or part of the amount overpaid from a superannuation fund or RSA provider, the person or their legal representative as a debt due to the Commonwealth.

### **Information gathering**

**Proposed Part 6** covers the Commissioner's gathering of information needed to make a decision about Government co-contributions. Information gathering is an essential part of the administration of the co-contribution scheme.

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This part obliges:

- superannuation funds and RSA providers to give statements to the Commissioner (**proposed section 26**)
- superannuation funds and RSA providers to give statements to other superannuation funds and RSA providers where contributed amounts are transferred (**proposed section 27**)
- superannuation funds and RSA providers to give statements to member on request (**proposed section 28**)
- superannuation funds and RSA providers to provide information in a particular form required by the Commissioner (**proposed section 29**)
- a member or their legal representatives to provide the Commissioner with information (when requested to do so) (**proposed section 30**)
- a superannuation provider to give the Commissioner information (when required to do so) (**proposed section 31**), and
- records to be kept and retained by the superannuation fund/RSA provider (**proposed section 32**)

**Proposed subsection 33(1)** is intended to provide that if the Commissioner has reasonable grounds to believe a superannuation provider has committed certain offences, an infringement notice may be served.<sup>17</sup> However, there may be a conflicting use of terminology in **proposed subsection 33(1)**. The first part of **proposed subsection 33(1)** actually reads:

Subject to subsection (2), the Commissioner may cause an infringement notice to be served on a superannuation provider in accordance with this Division if the Commissioner has reasonable grounds to believe that the provider has committed an offence against... [*emphasis added*].

The terms ‘superannuation provider’ and ‘provider’ are separately defined in **proposed section 56**, the dictionary. **Proposed section 56** defines the terms as:

*provider* of an RSA has the same meaning as in the *Retirement Savings Accounts Act 1997*.

*superannuation provider* means:

- (a) the trustee of a complying superannuation fund; or
- (b) the provider of an RSA; or
- (c) the trustee of a constitutionally protected fund.

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The term ‘provider’ in **proposed subsection 33(1)** may need to be replaced with ‘superannuation provider’ so as to ensure consistent use of terminology and so there is no confusion as to its meaning.

If an infringement notice has been served, it has to contain certain information in relation to the person on whom it is served and the various matters relating to the offence (**proposed section 34**).

The other provisions relating to infringement notices are:

- the process for withdrawing an infringement notice (**proposed section 35**)
- the effect on the infringement notice if the penalty is paid (**proposed section 36**)
- that no more than one infringement notice can be served on a person for the same offence (**proposed section 37**)
- what effect not serving an infringement notice has on taking other action in relation to an offence (**proposed section 38**), and
- that the Commissioner can extend the period for payment of penalty under an infringement notice (**proposed section 39**).

**Proposed Division 3** allows the Commissioner to appoint an authorised person (**proposed section 40**) who may enter a premise after obtaining court issued warrant under **proposed section 44**, or with the consent of the occupier of the premise (**proposed section 41**) following the production of an identity card that meets the requirements of **proposed section 45**, to determine:

- whether a Government co-contribution is payable to a person
- the amount payable to a person
- whether there has been an overpayment, or
- whether a person has contravened the legislation.

#### **Other matters**

**Proposed Parts 7 to 9** provide details of various administrative and other matters, including:

- the Commissioner having the general administration of the legislation (**proposed section 46**)
- the review of decisions by the Commissioner (**proposed sections 49 to 51**) and, if necessary, judicial review, under the *Administrative Decisions (Judicial Review) Act*

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1977 is also available, but not a formal review and appeal process via the Administrative Appeals Tribunal or the courts<sup>18</sup>

- secrecy provisions consistent with other Acts administered by the Commissioner (**proposed section 53**)
- providing a regulation making power enabling the Governor-General to make regulations (**proposed section 55**), and
- a dictionary (explanation) of the terms that are defined to have a particular meaning when used in this Bill (**proposed section 56**).

### Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003

**Item 1 of Schedule 1** inserts a **new paragraph 82AAS(2)(b)** into the ITAA 1936. The existing definition of 'eligible person' in section 82AAS of the ITAA 1936 is used in section 82AAT of the ITAA 1936 to determine who can receive a tax deduction for personal contributions. The definition in subsection 82AAS(2) characterizes who is an eligible person by actually defining who is not an eligible person. It currently states that a person is an eligible person unless they meet the conditions in paragraphs 82AAS(2)(a) and (b). The conditions in those two paragraphs currently exclude persons receiving superannuation support from a spouse, relative, friend or employer from being an eligible person and receiving a tax deduction for their personal contributions.

The Government's co-contribution is to be paid to low income earners who also had employer superannuation support during the year of income. One of the conditions that are required to be met for the Government co-contribution to be payable is that the person receiving the Government co-contribution is not an eligible person under section 82AAS. Using the current definition of 'eligible person' in section 82ASS would not only make the co-contribution payable to a person with employer support, but also a person who has received contributions from their spouse, a relative or a friend.

To ensure that during a year of income the people who receive the Government co-contribution are people who have had employer contributions made on their behalf and who meet the other conditions in **proposed section 6** of the S(GCLIE) Bill 2003, section 82AAS needs to be amended to narrow the definition of who **IS NOT** an eligible person. The new definition of eligible person under section 82AAS will result in a person who had contributions made on their behalf in connection with their eligible employment (they were an employee for the purposes of the *Superannuation Guarantee (Administration) Act 1992* (assuming subsection 12(11) of the Act was not in force)) not being an eligible person and therefore meeting the conditions to be eligible for the Government co-contribution.

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A consequence of this amendment is that a person will be entitled to a tax deduction for personal contributions if they are the recipient of a spouse contribution, or similar contribution made on their behalf by another person, which is not in relation to any eligible employment, provided they are the recipient of contributions during the year of income that were in relation to eligible employment.

**Item 3** repeals Subdivision AAC of Division 17 of Part III of the ITAA 1936 and, therefore, the low income superannuation rebate for personal superannuation contributions by low income earners (the rebate being replaced by the Government co-contribution).

**Items 4 to 6** amend the ITAA 1936 to ensure that Government co-contributions are not included in the taxable income of superannuation entities, nor subject to the superannuation surcharge.

**Items 7 and 8** amend the *Income Tax Assessment Act 1997* to ensure that Government co-contributions paid to a person directly, their legal representatives or the superannuation holding accounts reserve (SHAR) are exempt from tax.

The rules of one of the two defence personnel superannuation schemes (the Defence Force Retirement and Death Benefits Scheme) prevent it from accepting Government co-contribution payments for its members. **Item 9** amends the *Military Superannuation and Benefits Act 1991* to authorise the Minister for Defence to authorise the Military Superannuation Benefits Board to accept Government co-contribution payments for members of the Defence Force Retirement and Death Benefits Scheme.

**Items 10 to 15** amend the *Small Superannuation Accounts Act 1995* to enable the SHAR to hold Government co-contribution payments. The amendments include:

- a definition of Government co-contribution (**item 12**)
- the circumstances in which the Commissioner can transfer a person's SHAR balance (including Government co-contribution) to another superannuation entity (**item 14**), and
- the handling and crediting of deposits to, and withdrawals from, SHAR (**item 15**).

**Items 16 and 17** amend the *Superannuation Act 1976* to redefine the definition of 'transfer amount' to enable payment of an individual member's Government co-contributions to the Commonwealth Superannuation Scheme.

**Items 18 to 21** amend the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* and the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997* to clarify that Government co-contributions do not form part of the surchargeable contributions of a defined benefit superannuation scheme.

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**Items 22 and 23** amend the *Superannuation (Resolution of Complaints) Act 1993* to enable persons to complain to the Superannuation Complaints Tribunal about Government co-contribution statements provided by superannuation entities to the Commissioner.

**Item 24** amends the *Taxation Administration Act 1953* to allow the Commissioner to impose a general interest charge for the late payment of repayment of overpaid amounts of Government co-contribution.

### **Application**

**Item 25** provides that the amendments made by **Schedule 1** of the S(GCLIE)(CA) Bill 2003 apply in relation to contributions made to complying superannuation funds and retirement savings accounts on or after 1 July 2002.

## **Concluding Comments**

Low income earners are the beneficiary of the S(GCLIE) Bill 2003. They will receive 'free money' in the form of a deposit into their retirement savings held in their superannuation fund or RSA. Over time, through additional contributions and the compounding of interest, recipients will have a higher retirement benefit than they would have without Government contributions. If higher retirement incomes for low wage earners are the goal, questions should arise over whether a Government co-contribution, in the method proposed by this Bill is the best method to achieve such a goal. The implementation mechanism should prompt such inquiries: it uses the information collection mechanism of the superannuation surcharge, a mechanism that has been derided for its complex administration, clumsy assessment procedures and on-going administration costs borne by all superannuation fund members.

The amendments in the S(GCLIE)(CA) Bill 2003 are dependant on the passage of the S(GCLIE) Bill 2003 and contain a miscellany of generally beneficial but minor consequential amendments. Most of these amendments involve the treatment of Government co-contributions under taxation and superannuation legislation.

## **Endnotes**

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- 1 <http://www.aph.gov.au/library/pubs/bd/2002-03/03bd032.pdf> .
  - 2 See *Income Tax Assessment Act 1936*, subdivision AAC of Division 17 of Part III.
  - 3 '[A Better Superannuation System](#)', *Press Release*, the Hon. John Howard, Prime Minister, Liberal Party of Australia, 5 November 2001.

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- 4 The Hon. Peter Costello, MP, Treasurer, *Budget Paper No. 2: Budget Measures 2002-03*, p. 161.
- 5 *ibid.*, p. 15
- 6 *Explanatory Memorandum*, p. 4.
- 7 Barrie Dunstan, 'Charge of the light-on brigade,' *The Australian Financial Review*, 7 August 2002.
- 8 '[Extending super co-contributions worthy of serious consideration](#)', *Press Release*, Investment and Financial Services Association, 5 August 2002.
- 9 [2003-04 Pre-Budget Submission](#), Association of Superannuation Funds of Australia, February 2003, p.11.
- 10 *ibid.*, p.13.
- 11 '[Government Sticks to Election Promises](#)', *Press Release*, Senator the Hon. Helen Coonan, Minister for Revenue and the Assistant Treasurer, 12 March 2003.
- 12 That is, those reporting systems employed under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* and the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*.
- 13 Except possibly, choice of superannuation fund. This was been rejected by the previous Parliament and reintroduced in the Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill 2002.
- 14 See the 23rd report of the former Senate Select Committee on Superannuation, *Superannuation Surcharge Legislation*, especially Chapter 4: The Proposed Collection Mechanism.
- 15 *Explanatory Memorandum*, p. 48.
- 16 That is, the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*, and the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*.
- 17 An infringement notice may be served if the Commissioner of Taxation is reasonable satisfied that an offence has been committed under subsections 16(3), 20(3), 26(20), 26(3), 27(2), 28(2) and 29(7).
- 18 *Explanatory Memorandum*, p. 34.

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