




AUSTRALIAN CHAMBER OF
COMMERCE AND INDUSTRY



ACCI SUBMISSION
TO THE
HOUSE OF REPRESENTATIVES
ECONOMICS COMMITTEE
ON THE SUPERANNUATION
GUARANTEE (ADMINISTRATION)
AMENDMENT BILL 2011

Submission | November 2011

ABN 85 008 391 795

Canberra Office
COMMERCE HOUSE
Level 3, 24 Brisbane Avenue
Barton ACT 2600

PO BOX 6005 Kingston,
ACT 2604 AUSTRALIA

T: 02 6273 2311
F: 02 6273 3286
E: info@acci.asn.au

Melbourne Office
Level 3, 486 Albert Street
East Melbourne VIC 3002

PO BOX 18008
Collins Street East
Melbourne VIC 8003
AUSTRALIA

T: 03 9668 9950
F: 03 9668 9958
E: melb@acci.asn.au

W: www.acci.asn.au

© Australian Chamber of Commerce and Industry 2011

This work is copyright. Reproduction is permitted, with direct attribution and notification to the Australian Chamber of Commerce and Industry.

Graphic Design and typesetting by Monica Mosmondor.



The Superannuation Guarantee (Administration) Amendment Bill 2011 ('the Superannuation Levy Bill') was introduced into the House of Representatives on 2nd November 2011. It proposes to increase the employer superannuation guarantee levy from 9% of payroll to 12%, in seven stages between 2013/14 and 2019/20.

ACCI'S INTEREST

The Australian Chamber of Commerce and Industry (ACCI) is Australia's peak council of 38 business organisations, both Chambers and national Industry Associations. It is Australia's largest and most representative business network. Most of our members are deeply involved in employment and workplace issues on behalf of their constituents, the majority of which are employers and small and medium businesses.

Self-evidently, ACCI and our members have a deep interest in this matter, which is of significance economically, fiscally, socially and industrially. Our estimate is that, if fully implemented, this increase amounts to an extra \$20 billion per year paid in employer superannuation levies.

THE PARLIAMENTARY PROCESS

The Superannuation Levy Bill was introduced as one of ten (10) "related Bills" to the Minerals Resource Rent Tax Bill 2011.

There is no natural or necessary connection between superannuation policy and the funding of retirement incomes, and taxation policy for the mining and resources sector. They are two separate issues, and both are issues of a substantial policy nature affecting the economy and broader society in potentially profound ways. Both issues require deep and considered policy consideration in their own right.

The mere fact that the government asserts an association on the basis that 'the mining tax is needed to provide workers with better superannuation' (as the government from Prime Ministerial level down have claimed for over a year) is no reason why the parliament or its Committees should compromise one or other of the issues by dealing with these Bills cognately or jointly.

Indeed, the government's abovementioned claim is misleading, and has been for the past eighteen months.

The proposed mining tax revenue will not and does not fund the seven increases to the superannuation levy contemplated by the Superannuation Levy Bill. All the mining tax revenue will do (in this regard) is supplement loss of revenue to Treasury (i.e. government) consequent on the higher superannuation contributions



made by employers (due to the fact that superannuation is concessionally taxed). Moreover, the corporate tax reduction and the small business asset write off proposals, whilst welcomed, fall far short of funding the superannuation levy rises for reasons set out in this submission.

Whether the mining tax linkage is tenuous (as we assert) or not, the consequence of this joinder is that the Superannuation Levy Bill is being dwarfed in the public and parliamentary debate by the controversy over the mining tax. Thus the hundreds of thousands of employers who will be paying higher superannuation levies for seven of the next nine years are being denied the natural justice of having their views on the legislation that sets their obligations dealt with in a full and complete manner. Retirement incomes policy more generally, a crucial issue for our nation given its demographics, is getting the short straw.

In brief, ACCI does not accept the parliament sliding through proposals for a \$20 billion levy on employers on the coat tails of a debate about how to best tax the mining industry.

Recommendation 1: That the Committee recommend to the Parliament that it provide full opportunity to consider the mining tax legislation and the Superannuation Levy Bill on their merits and in their own right, and that the debate on the Superannuation Levy Bill be deferred to 2012 and that it not be debated concurrently or conjointly with the mining tax Bills.

Recommendation 2: The Committee should consider the Superannuation Levy Bill on its merits and in its own right, and advise the House that its substantive report will need to be deferred to 2012 to enable proper consideration and input on the funding of retirement incomes policy in Australia and the issues raised in this and other submissions.

ACCI'S POSITION

ACCI opposes the seven proposed increases in the Superannuation Levy Bill. There are twelve (12) good reasons:

1. The Bill is a new \$20 billion compulsory levy on payroll, akin to a new payroll tax (it's not a tax in the strict sense, but operates on employers as a tax). Taxes and levies on payroll are taxes and levies on jobs. The more people employed, the more hours of work provided by employers, the more levy employers pay. Nor is the proposal 'a 3% increase'. It is actually a one-third (33%) increase to an existing employer levy;
2. The Bill has no credible or workable funding base;
3. The proposed levy increase was specifically rejected by the Henry Tax Review;



4. Regrettably, the proposed levy increase cannot be reliably or realistically funded by a wage-superannuation trade off. This is because of the less centralised nature of our wages system compared to when compulsory superannuation was first introduced;
5. The proposed quid pro quo's for business from the mining tax package (corporate tax reduction, small business asset write off) go nowhere near funding the costs of the levy increase;
6. The proposed levy increase represents a breach of faith to Australia's employers, who were promised at the 2007 general election that the incoming government did not intend to increase the superannuation levy;
7. The cost impact of the levy increase is borne directly by employers, but indirectly by the community through less investment in jobs, infrastructure and growth;
8. Whether the 9% paid by employers is or is not adequate for future retirement income purposes, the idea that Australian employers should bear the burden of funding the whole or most of the superannuation guarantee levy is unbalanced and unfair, by both international standards and domestic considerations;
9. The Bill represents significant cost shifting by the Commonwealth to the private sector, and in particular small and medium enterprises. About half of the costs of the Bill will be paid for by SME's (that's about \$10 billion per year, once fully implemented);
10. Aside from the economics, the Bill raises serious equity issues for SME's. Small and medium business owners, not their employees, risk being the retiring poor of the next generation;
11. At a time of low confidence in superannuation and of share and property market volatility, there are better and wiser investments for the \$20 billion expenditure; and
12. The case for the Bill is weaker now in November 2011 than it was when first announced in May 2010, given that the government's superannuation industry reform package (largely supported by ACCI) is claimed by the government to add to retirement savings equivalent to a 1% rise in the superannuation levy, and given that superannuation returns have continued to be poor.

SUPPORTING ARGUMENTS

1. In May 2010 the government announced, in breach of its 2007 election commitment and contrary to the recommendations of its Henry Tax Review, an increase the employer superannuation guarantee levy (SGL) from 9% to 12% of payroll. The increase would occur in seven steps between 2013 and 2020.
2. The government announcement was made in the context of the (then) resource super profits tax package. Despite the subsequent downward revision of that package, the government has maintained its intent.



3. The Superannuation Guarantee (Administration) Amendment Bill 2011 was introduced into the House of Representatives on 2nd November 2011, jointly with mining tax legislation (Minerals Resource Rent Tax Bill 2011; Minerals Resource Rent Tax (Imposition–Customs) Bill 2011; Minerals Resource Rent Tax (Imposition–Excise) Bill 2011; and Minerals Resource Rent Tax (Imposition–General) Bill 2011).
4. If passed, the Bill would transitionally increase the SG levy from 9% to 12% commencing from 1 July 2013 until 2019/20 as follows:

Table 1.1

<i>Quarter during the income year</i>	<i>Charge percentage (%)</i>
2013-14	9.25
2014-15	9.5
2015-16	10
2016-17	10.5
2017-18	11
2018-19	11.5
2019-20 and subsequent income years	12

5. The Bill also amends the existing age limit for employer payments from 70 to 75 years. In fact, the Government's second reading speech indicates that the age limit for superannuation contributions will be removed altogether "as a result of strong representations from members of the Labor caucus and cross-bench". This alone will mean employers funding superannuation for an additional 18,000 Australians aged 75 years and over. It is expected that the Government will move an amendment to its own Bill to remove the existing age limit of 70 years.
6. Whilst technically a separate Bill, the Explanatory Memorandum indicates that the provisions are dependent upon the passage of the Government's Minerals Resources Rent Tax Package (MRRT). Clause 2 of the Bill indicates that the measures to increase the SG levy do not commence "at all unless all of the [mining tax] Acts have commenced before 1 July 2013".
7. The Henry Tax Review recommended that there should be no change to the contribution rate nor the monthly threshold. That Report stated:

Recommendations for system design

The superannuation guarantee rate should remain at 9 per cent. The Panel has considered carefully submissions proposing an increase in the superannuation guarantee rate. Such an increase could be expected to lift the retirement incomes of most workers. However, the Panel considers the rate of compulsory saving to be adequate. The Age Pension and the 9 per cent superannuation guarantee (when mature) can be expected to provide the opportunity for people on low to average wages with an average working life of 35 years to have a substantial replacement of their income, well above that



provided by the Age Pension. This strikes an appropriate balance for most individuals between their consumption opportunities during their working life and compulsory saving for retirement. The Panel considers that more can be done through preservation and other rules to ensure that the 9 per cent contribution rate produces an adequate retirement income for greater numbers of people, and its other recommendations are made partly for this purpose. For higher income workers especially, the third pillar provides an opportunity to access significantly higher income replacement rates.

The superannuation guarantee broadly should continue to cover employees. While those who derive business income should make provision for their retirement during their working lives, the diverse and varying risks and circumstances of business and entrepreneurship argue for allowing full flexibility in their saving and investment decisions. The voluntary superannuation system is available to small business people for contributing to meeting their retirement needs. However, there can be a fine line between those who are self-employed and those who are performing contracted duties similar to an employee. This distinction arises in a number of areas of policy. In its final report, the Panel will consider further how to distinguish the self-employed, including whether the scope of the superannuation guarantee could be extended to include with greater clarity and certainty arrangements that are close in nature to a formal employer-employee relationship. The \$450 per month threshold should continue to apply, as the compliance costs to the employer of providing superannuation guarantee contributions to marginally attached workers are outweighed by the benefits to the employee.

8. The Government, has, however, acted in spite of this analysis and recommendation.
9. In current dollar terms this is estimated to cost employers in excess of \$20 billion per year when fully implemented. That would more than double the revenue that was expected to be generated by Mining Tax.
10. The Government claims this decision will achieve two main outcomes – “greater adequacy and greater equity.” It claims the measures will directly address issues associated with Australia's ageing population and boost private and national savings. It estimates that a 30 year old earning average full time wages will have an additional \$108,000 in retirement savings as a result of this increase in the SGL charge. It also cites the Intergenerational Report 2010 to underline the challenges faced by an ageing population.
11. The case for increasing the SGL is weaker in November 2011 than it was when first proposed in May 2010 because:
 - MySuper and SuperStream reforms are being progressed by government (largely supported by ACCI) to the superannuation industry consequent on the Governance, Efficiency, Structure and Operation of Australia's Superannuation System (the Cooper Review). Those reforms have been said by the government itself to increase retirement savings equivalent to the value of a 1% increase in the SGL; and



- Volatility and underperformance on share and property markets have seen significant losses in value in recent years, despite continuing and continuous contributions being made by employers into employee superannuation funds. The confidence of the community in superannuation as a savings vehicle has been tested. Pouring more money into superannuation is poor policy if that money is able to be used for more beneficial economic purposes. It should be recalled that that a percentage of revenue to be extracted from private employers will be taken by the finance industry as commissions, and that the remainder will be invested by trustees in share and property markets that are currently highly volatile.
12. The Mining Tax package does not provide an adequate funding base. Whilst the Government has indicated that it will also seek to reduce the company tax rate from 30% to 29%, this will not apply to unincorporated employers (who still pay the SGL). Small business tax concessions are largely cash flow deferrals. These are merited in their own right. In any event, the value of these 'benefits' is grossly outweighed by the cost of the SGL increases. It is recognised, however that the government has attempted to ameliorate the cost impacts by phasing in the increases over a period of years. As much as this is better than nothing, it does not address the fundamental issue for the parliament, that is, should the costs be imposed and fall the way proposed once the transitional period is complete. That is the substantive question. The parliament should not be side-tracked by transitional arrangements, no matter how well intended.
 13. Claims that the increase can be funded by wage trade-offs do not withstand scrutiny. There is no centralised wage fixation as there was when the superannuation guarantee levy was first introduced. There is no amending legislation to require minimum wage setting by Fair Work Australia to discount future wage rises. Once legislated as an employer obligation, incentive would be removed for unions in enterprise bargaining to voluntarily agree to discount wage rises for higher superannuation. This Bill, if enacted, will kill the prospect of wage-superannuation trade-offs in collective bargaining, at least for this first 12%.
 14. In any event, 90% of employers (employing 50% of the workforce) are SME's who do not collectively bargain, let alone bargain for wage superannuation trade-offs. These employers employ under awards made by Fair Work Australia. There are also no measures in the Bill which would allow minimum wage increases to be traded off against transitional increases to the SG levy (contrast this to the case when the SG levy was raised to 9%). Even if small business collectively bargained, powerful unions wouldn't need to concede ground to them. These smaller employers have never seen wage rises discounted for the first 9% they are paying.
 15. There is no provision requiring employees to co-contribute part of the increased levy into a relevant fund. International practice is for pensions and retirement incomes to be part funded by the public sector (government), the private sector (employers) and individuals (employees). In some countries, employees are required to make mandated contributions in addition to employer contributions. Australia stands alone



in requiring employers to fund the whole amount, with the exception that in some industries aspects of the first 3% were subject to some wage trade-offs in the 1980's. But this was not generally the case, and was not the case with respect to the increases from 3% to 6%, except in the occasional collective agreement.

16. Finally, there are serious equity issues. Most of the employers who will be paying the proposed levy rise are small and medium business owners who are business people that do not decry a good retirement income for their staff. Yet most small business people don't have the capacity to squirrel away 9% let alone 12% of earnings each year for their own superannuation. Not only do they take the risk to employ others, but they carry the burden of funding retirement incomes and taking pension pressure off future government budgets. No-one in government is talking about their retirement. Their retirement capital is their business assets, if any is left that survives competition, family break up or partnership collapse. And what does government do with that – it taxes it – the capital gains tax. Yet when it comes to the staff superannuation they have funded, it is concessionally taxed. Unless something is done about this, these small business owners risk being the retiring poor of the next generation, that is, those that try to retire. That is a matter of social equity and fairness, not just a cost or industrial relations issue.

Recommendation 3: The Committee should recommend rejection of the Superannuation Guarantee (Administration) Amendment Bill 2011. It should recommend that the government not proceed with the 9% to 12% levy increase until at least two conditions are met:

- a workable and fair funding base is found; and
- a workable and fair approach is developed to support the retirement incomes of small and medium business people.

Recommendation 4: At the very least, the Committee should recommend that the government amend the Fair Work laws so as to require minimum wage decisions by Fair Work Australia to discount increases it may order by the relevant cost to employers of the corresponding years of the seven proposed levy rises.



ACCI MEMBER CHAMBERS

ACT AND REGION CHAMBER OF COMMERCE & INDUSTRY AUSTRALIAN FEDERATION OF EMPLOYERS & INDUSTRIES BUSINESS SOUTH AUSTRALIA CHAMBER OF COMMERCE & INDUSTRY QUEENSLAND CHAMBER OF COMMERCE & INDUSTRY WESTERN AUSTRALIA CHAMBER OF COMMERCE NORTHERN TERRITORY NEW SOUTH WALES BUSINESS CHAMBER TASMANIAN CHAMBER OF COMMERCE & INDUSTRY VICTORIAN EMPLOYERS' CHAMBER OF COMMERCE & INDUSTRY

ACCI MEMBER NATIONAL INDUSTRY ASSOCIATIONS

ACCORD AGRIBUSINESS EMPLOYERS' FEDERATION AIR CONDITIONING & MECHANICAL CONTRACTORS' ASSOCIATION AUSTRALIAN BEVERAGES COUNCIL AUSTRALIAN DENTAL INDUSTRY ASSOCIATION AUSTRALIAN FOOD AND GROCERY COUNCIL AUSTRALIAN HOTELS ASSOCIATION AUSTRALIAN INTERNATIONAL AIRLINES OPERATIONS GROUP AUSTRALIAN MADE, AUSTRALIAN GROWN CAMPAIGN AUSTRALIAN MINES AND METALS ASSOCIATION AUSTRALIAN PAINT MANUFACTURERS' FEDERATION AUSTRALIAN RETAILERS ASSOCIATION BUS INDUSTRY CONFEDERATION CONSULT AUSTRALIA HOUSING INDUSTRY ASSOCIATION LIVE PERFORMANCE AUSTRALIA MASTER BUILDERS AUSTRALIA MASTER PLUMBERS' & MECHANICAL SERVICES ASSOCIATION OF AUSTRALIA NATIONAL BAKING INDUSTRY ASSOCIATION NATIONAL ELECTRICAL AND COMMUNICATIONS ASSOCIATION NATIONAL FIRE INDUSTRY ASSOCIATION NATIONAL RETAIL ASSOCIATION OIL INDUSTRY INDUSTRIAL ASSOCIATION PHARMACY GUILD OF AUSTRALIA PLASTICS AND CHEMICALS INDUSTRIES ASSOCIATION PRINTING INDUSTRIES ASSOCIATION OF AUSTRALIA RESTAURANT & CATERING AUSTRALIA VICTORIAN AUTOMOBILE CHAMBER OF COMMERCE



AUSTRALIAN CHAMBER OF
COMMERCE AND INDUSTRY

9th November 2011

Ms Julie Owens MP
Chair
Standing Committee on Economics
House of Representatives
Parliament House
CANBERRA ACT 2600

COMMERCE HOUSE
24 BRISBANE AVE
BARTON ACT 2600

PO BOX 6005
KINGSTON ACT 2604
ABN 85 008 391 795

PH: 61-2-6273 2311
FAX: 61-2-6273 3286
WEB: www.acci.asn.au

Dear Chairperson

I write in reference to the House Economics Committee's current inquiry into the "Minerals Resource Rent Tax Bill and 10 related Bills", as described in your media statement of 3rd November.

The Australian Chamber of Commerce and Industry (ACCI) is Australia's peak council of 38 business organisations, both Chambers and national Industry Associations. It is Australia's largest and most representative business network. Most of our members are deeply involved in employment and workplace issues on behalf of their constituents, the majority of which are employers and small and medium businesses.

The specific context of this letter is the Superannuation Guarantee (Administration) Amendment Bill 2011, which is one of the "related Bills" referred to in the abovementioned media statement. This Bill, as you would be aware, proposes to increase the employer superannuation guarantee levy from 9% of payroll to 12%, in seven stages between 2013/14 and 2019/20.

Self-evidently, ACCI and our members have a deep interest in this matter, which is of significance economically, fiscally, socially and industrially. Our estimate is that, if fully implemented, this increase amounts to an extra \$20 billion per year paid in employer superannuation levies.

In this context I find it concerning that your Committee has only been provided with 19 days from commencement to final Report, and has been able to only provide industry with 3 working days' notice of the inquiry before closing submissions.

I attach a brief submission on behalf of ACCI limited to the Superannuation Guarantee (Administration) Amendment Bill 2011, and ask that it be accepted by the Committee notwithstanding it being overdue.

Please note that given the time constraints, our submission is abridged and does not include material and analysis which could have been provided should time have allowed for drafts to be circulated to our member network for input. The submission nonetheless reflects established ACCI policy, affirmed by members as recently as a month ago.

Thank you for your attention to this matter.

Yours sincerely

Peter Anderson
Chief Executive

cc Committee Secretary, Standing Committee on Economics

