

The Parliament of the Commonwealth of Australia

REPORT ON
TAXATION LAWS AMENDMENT
(SUPERANNUATION) BILL (NO. 2) 2002

and

SUPERANNUATION GUARANTEE CHARGE
AMENDMENT BILL 2002

SENATE SELECT COMMITTEE ON SUPERANNUATION

June 2002

Commonwealth of Australia

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On 19 June 2002, Senator Conroy was appointed to replace Senator Sherry for the Committee's hearing on Thursday, 20 June 2002.

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Chapter 1

Introduction

Referral of bills to the Committee

1.1 The Taxation Laws Amendment (Superannuation) Bill (No 2) 2002 and the Superannuation Guarantee Charge Amendment Bill 2002 were referred to the Committee by the Selection of Bills Committee on 19 June 2002, for inquiry and report by 26 June 2002.

1.2 Both bills were introduced into the House of Representatives on 16 May 2002 and the Senate on 19 June 2002.

1.3 In referring the bills to the Committee, the Selection of Bills Committee identified that the Committee should:

- examine the impact of the bills in relation to requiring employers to make at least quarterly superannuation contributions on small and large business;
- consider the impact on casual and part-time wage earners of amending the superannuation guarantee earnings threshold to \$1,350 per quarter;
- consider the costing and number of persons impacted by these provisions; and
- consider whether the proposed amendments confer an unfair tax cut to only high income earners.

Conduct of the inquiry

1.4 There was a very short time in which to conduct the inquiry. Nevertheless the Committee received a number of submissions and other material in connection with the bills. The submissions are listed at **Appendix 1**. The other material is listed at **Appendix 2**.

1.5 The Committee met in public to consider the bills on 20 June 2002. A list of those who gave evidence at the public hearing is at **Appendix 3**.

Purpose of the bills

Taxation Laws Amendment (Superannuation) Bill (No 2) 2002

1.6 In the Explanatory Memorandum to the Bill, the Government indicated that the main purpose of the Taxation Laws Amendment (Superannuation) Bill (No 2) 2002 [TLA(S) Bill] is to implement five measures designed to enhance the overall attractiveness, accessibility and security of superannuation by:

- requiring employers to make at least quarterly superannuation contributions on behalf of their employees;
- reducing the superannuation surcharge rates by one-tenth of their current level each year for the next three years;

- allowing superannuation contributions to be made on behalf of children who would not otherwise have superannuation;
- increasing the deduction limit for personal superannuation contributions made by the self-employed; and
- increasing from 70 to 75 the age up to which working members of superannuation funds can make personal superannuation contributions.

1.7 The bill also includes a range of changes to the *Superannuation Guarantee (Administration) Act 1992*, a number of technical amendments to correct legislative oversights arising from the *Taxation Laws Amendment (Superannuation) Act (No 1) 2002* (which enables superannuation to be paid to temporary residents who permanently depart Australia), the *Taxation Laws Amendment Act (No 5) 2001* (which provides for a constitutionally protected fund to change status to a taxed fund) and the *Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Act 2001* (which ensures the appropriate tax treatment is applied to superannuation interests which may be split).

1.8 Four of the five measures contained in the Bill are planned to take effect from 1 July 2002, with the exception being the introduction of the quarterly Superannuation Guarantee (SG) regime which will commence from 1 July 2003.

1.9 The five main measures were foreshadowed in the Government's election policy statement, *A Better Superannuation System*, released on 5 November 2001. In line with this statement, the implementation of these measures was announced in the 2002-2003 Federal Budget. The changes to the SG and the minor technical amendments had not previously been announced. In particular, the change to the threshold wage level required for entitlement to the SG was announced on Budget night.

Superannuation Guarantee Charge Amendment Bill 2002

1.10 The main purpose of the Superannuation Guarantee Charge Amendment Bill 2002 [SG Bill] is to provide for the quarterly imposition of SG contributions. These amendments, which were announced in the Government's election policy statement, are planned to commence from 1 July 2003.

Government's proposed change to the legislation

1.11 Just prior to the commencement of the public hearing on the bill on 20 June 2002, the Committee was advised by the Minister for Revenue and Assistant Treasurer, Senator the Hon Helen Coonan, that the Government had decided to relocate the amendments reducing the surcharge into the bills implementing the co-contribution.¹

1.12 In her letter to the Committee, which was tabled at the hearing, Senator Coonan advised that:

1 Under this proposal the Government intends to match the personal superannuation contributions of low income earners up to an annual amount of \$1,000. The maximum co-contribution would apply to those on or below an income of \$20,000 and would taper off for those on incomes between \$20,000 and \$32,500.

The Superannuation (Government Co-contribution for Low Income Earners) Bill 2002 and the Superannuation Legislation Amendment Bill 2002 will introduce the co-contribution measure and the reduction in the surcharge as a package. As these two measures are designed to encourage saving for retirement, packaging them together will co-locate measures that make superannuation contributions more attractive for both higher and lower income earners. The bills will highlight the fact that the Government's superannuation initiatives were designed as a balanced set of measures.

Regulations

1.13 The Committee was also advised by Treasury officials at the hearing that further detail relating to the implementation of the measures proposed in the legislation would be included in regulations which are yet to be developed, but were expected to be tabled in the Parliament this week.

Issues arising during the inquiry

1.14 A number of issues arose during the inquiry, which are discussed in the next section of the report. In addition a number of technical matters, which were not canvassed during the public hearing, were addressed in submissions.

1.15 In relation to the SG regime, the issues discussed in the report include:

- quarterly payments of the SG;
- monthly reporting; and
- the minimum earnings threshold.

1.16 The other issues discussed in the report include:

- the surcharge rates;
- deduction limits for the self-employed;
- superannuation contributions for children; and
- the age test for contributions.

Chapter 2

Issues

Quarterly Superannuation Guarantee Contributions

2.1 Under current SG arrangements compulsory employer contributions are required no more frequently than annually. However, most employers, around 85 per cent, make more frequent contributions (quarterly or more frequently) because the trust deed of the fund nominated in a workplace arrangement (frequently an award) requires more frequent (usually monthly) contributions.

2.2 Under the SG arrangements employers are not required to make contributions where an employee earns less than \$450 in a month.

2.3 The SG Bill proposes to require employers to make quarterly contributions as a minimum standard.

2.4 The TLA(S) Bill also proposes to:

- introduce a new employer reporting requirement so that employers will be required to advise their employees both the amount of contributions and the receiving fund on a monthly basis; and
- amend the minimum earnings threshold, which needs to be achieved before SG contributions are made, from \$450 per month to \$1,350 per quarter.

Summary of views

Quarterly payments

2.5 There have been many calls for more frequent SG contributions since the scheme commenced in the early 1990s. All of the representations and evidence provided to the Committee on this issue, including by the Australian Industry Group (AIG), supported the need for at least quarterly payments. Some, including the Australian Council of Trade Unions (ACTU), the Industry Funds Forum (IFF), and Association of Superannuation Funds of Australia (ASFA) supported compulsory monthly employer payments.

2.6 Many organisations, such as the ACTU and ASFA, noted that the move away from annual contributions would improve the protection of employee entitlements against employer failure and provide more investment returns because funds will be invested sooner. In addition, some organisations, such as the ACTU and IFF, pointed out that the move will also assist competition between businesses so that those which make more frequent contributions will no longer be disadvantaged.

2.7 The ACTU advised the Committee that many employers, who currently make monthly contributions under an award or fund trust deed, might think that they could now pay quarterly. The Union suggested that the Government organise an information campaign to advise employers that they are still bound by those arrangements. In response to this

suggestion, officials from the Australian Taxation Office (ATO) indicated that the Government has allocated money for an information campaign on the SG changes.

2.8 The IFF considered that some employers might inadvertently make late payments of contributions, especially in the transition to the new quarterly system. Where this happens, they believe that the employer should not be liable to pay the charge amount as well. If such payments are required for late payments then the amount should be limited to the penalty and should not include the contributions as well. This is because the contributions have already been paid and they should not be duplicated through the application of the charge. In any event, in the view of the IFF, contributions should go direct to the fund, and not to the ATO for distribution to the fund, and penalty amounts only should be paid direct to the ATO.

2.9 In April 2001 the former Senate Select Committee on Superannuation and Financial Services reported on the enforcement of the Superannuation Guarantee Charge.¹ That Committee heard almost unanimous support for more frequent (than annual) SG payments to address many of the problems arising from SG non-compliance. In its report, the Committee recommended that the requirement for compulsory SG contributions by employers, where it is not currently monthly, be varied to provide for quarterly payments.

2.10 The Committee welcomes the Government response to the Committee's report that was tabled on 20 June 2002, and which has addressed one of the Committee's recommendations by the introduction of the SG Bill.

Monthly reporting

2.11 As noted above, the TLA(S) Bill proposes to introduce a requirement for employers to report contribution amounts to members of accumulation funds within 30 days of the contribution being made.

2.12 Most of the evidence to the inquiry, including that from ASFA, IFF, and the ACTU, supported the proposed reporting requirements. They were seen as a means of heightening member interest and awareness in their superannuation, and a better way of following up missing contributions sooner than is presently the case.

2.13 However, the Corporate Super Association submitted that the proposal may be too prescriptive and that it was concerned about the systems impact and the practicalities of such a requirement. The Association suggested instead that discretion be provided in the legislation regarding the frequency of reporting, and that reporting annually as part of the annual PAYG tax summary would be sufficient.

Minimum earnings threshold

2.14 There is widespread criticism in all of the submissions to the Committee of the proposal to move the earnings threshold from \$450 a month to \$1,350 per quarter. Submissions and evidence noted that the proposal would take away superannuation support from some groups of employees currently eligible to receive benefits, including seasonal workers, casual workers and women. The Investment and Financial Services Association (IFSA) also noted that many of these would be young people and that the reduction would go

1 Senate Select Committee on Superannuation and Financial Services, *Enforcement of the Superannuation Charge*, April 2001.

against the Government's principles of extending superannuation coverage, especially over the whole of life.

2.15 Witnesses indicated that it would be very difficult or even impossible to quantify the number of employees that would be disadvantaged by this proposal. However, the ACTU thought that at least 100,000 workers could be affected.

2.16 The Treasury, while agreeing that some employees will be disadvantaged, noted that some employees who currently miss out could receive contributions for the first time under the proposal. The Treasury indicated that, in determining the proposed threshold and its impact, some modelling had been done in this area but they were unable to provide the Committee with estimates of the number of employees who would lose SG coverage.

2.17 ASFA considered that a move to a quarterly threshold may provide employers with an opportunity to manipulate employee work rosters to avoid making superannuation contributions. This view was reinforced by the ACTU.

2.18 Groups such as the Australian Consumers' Association (ACA), IFF and CPA Australia (CPA) indicated their preference to retain the current monthly threshold, with one organisation, the Institute of Chartered Accountants in Australia (ICAA), suggesting that the threshold could be removed entirely.

2.19 Taxpayers Australia Inc and Superannuation Australia (Taxpayers Australia) provided a submission supporting the move to a quarterly threshold. In their view this is necessary to balance the additional costs to the employer of administration and reporting. They also saw this proposal as one way to reduce the impact of fund administration fees on small account balances.

2.20 The ATO and Treasury were unable to quantify the alleged compliance cost savings to business as a result of this change. The ATO commented that the cost savings were, at this stage, 'just a general feeling', as opposed to any 'specific dollar amounts'.

Surcharge rates

2.21 The surcharge on superannuation contributions will be applied from 1 July 2002 where a high income earner receives income (including super contributions) of over \$90, 527 in the year. The full 15 per cent rate applies where the income is in excess of \$109, 924 per annum. The surcharge applies in addition to the tax on fund income (contributions and interest) in the hands of the fund.

2.22 The TLA(S) Bill proposes to reduce the 15 per cent rate in three steps from 1 July 2002 until the maximum rate is 10.5 per cent from 1 July 2004.

Summary of views

2.23 In March 1997 the former Senate Select Committee on Superannuation reported on the surcharge legislation.² At that time evidence received by the Committee was overwhelmingly critical of the surcharge. Serious objections were raised on constitutional,

2 Senate Select Committee on Superannuation, *Superannuation Surcharge Legislation*, March 1997.

equity, administrative and complexity grounds. The industry has been consistently opposed to the surcharge ever since.

2.24 The Committee is currently conducting an inquiry into superannuation and standards of living in retirement.³ Most individuals and organisations that have made submissions on that reference have raised the surcharge as an important issue. The vast majority of those submissions supported the removal of the surcharge.

2.25 However, in respect of the winding back of the surcharge as proposed in the TLA(S) Bill, the evidence is more mixed. Many, for example, ASFA, IFSA, CPA, Taxpayers Australia, the ICAA and the Society of Superannuants (SOS), supported the proposal on the grounds that they support any move to reduce front-end taxes on superannuation. Taxpayers Australia supported the removal of the surcharge entirely.

2.26 IFSA considered that equity in the distribution of taxation considerations is best considered not through an annual surcharge, but through a lifetime measure such as the Reasonable Benefit Limits (RBLs). The Association considered that any debate on the removal of front-end superannuation taxes was a welcome development supporting a savings culture and noted that, in an ideal world, the contributions tax would also be removed. In IFSA's view, the surcharge reduction is important because it is the first attempt by any Government to reduce front-end tax.

2.27 The ICAA and CPA noted the burden of administration imposed by the surcharge. Both organisations submitted that the proposal weakened the revenue base and made the compliance costs an even higher proportion of the revenue. The ICAA also called for the public to be fully advised of the uses of surcharge data, so that those paying the costs could be better informed.

2.28 Others such as the ACTU and Australian Institute of Superannuation Trustees (AIST), opposed the proposal because it represented a \$370M tax cut for the top 3 per cent of taxpayers. These groups would prefer that the money be used to finance a cut in the fund contributions tax.

2.29 The ACA indicated that, while it supported any move to reduce front-end taxes, it would prefer a cut to the contributions tax over a cut to the surcharge because it would benefit all fund members. ASFA also commented that it supported a cut to the contributions tax, as proposed by the ALP, as 'everyone would get a reduction'.

Deduction limits for the self-employed

2.30 Under superannuation law, superannuation contributions for the self-employed are deductible. The tax deduction is limited to the initial \$3,000 of contributions plus 75 per cent of any additional contributions up to the age based deductible limit. The annual limits in the 2001–2002 year are \$11,912 for those aged under 35; \$33,087 for those between ages 35 and 49; and \$82,054 for those over age 50.

3 The term of reference are: The adequacy of the tax arrangements for superannuation and related policy to address the retirement income and aged and health care needs of Australians. Referred 14 March 2002; report due 26 September 2002.

2.31 The TLA(S) Bill proposes to increase the initial amount from \$3,000 to \$5,000 per annum.

Summary of views

2.32 All of the submissions and evidence supported the proposal. However, views were expressed by ASFA, CPA and the ICAA that the tax concessions available to the self-employed should be the same as for employees. According to these groups such a move would suit the remuneration policies now in place. Treasury noted that different arrangements existed for the deductibility of contributions for the self-employed and for employees. They indicated that bringing the self-employed into line with the employee limits would have budgetary implications.

2.33 The CPA asked for consideration to be given to allowing member specific age based deductible contributions to be cumulative. In their view, this would provide more flexibility so that contributions could be made as funds were available.

2.34 IFSA, while supporting the proposal, also called for automatic indexation of the annual threshold, in line with the treatment of many other amounts in the superannuation system.

Superannuation contributions for children

2.35 Superannuation law generally requires that a contributory member of a superannuation fund needs to be employed. An exception is that fund members who are employed can make contributions in respect of a non-working spouse.

2.36 The TLA(S) Bill proposes to extend the category of people who can have contributions made on their behalf to children under the age of 18. Employees over the age of 18 generally receive compulsory employer SG contributions.

2.37 It is intended that parents, relatives and friends may contribute up to \$3,000 in respect of a child in a three year period. Such contributions will be tax free in the hands of the superannuation fund.

Summary of views

2.38 Very little evidence was received on this issue. Of those who commented there was widespread support for the proposal. Witnesses nonetheless thought that the proposal would have limited appeal.

2.39 The ACTU noted that the arrangement could provide the rich with an opportunity to take advantage of the tax concession because these contributions will be untaxed in the hands of the fund.

2.40 The ACA considered that minors could be denied control over funds in contrast to the position of employed minors.

2.41 ASFA noted that the list of categories of people who could make contributions is complex and suggested that the rules could be replaced with the provision for any person to be able to accumulate superannuation where they are in receipt of taxable income. ASFA noted that the usual age and RBLs would apply to these accounts.

2.42 Taxpayers Australia suggested that self-managed funds could be permitted to accept contributions so that all children could be members under the membership limits for these funds. They also urged that contributions in respect of children should be member protected in the same way as SG contributions.

2.43 The Treasury indicated that child accounts would not be subject to internal fund member protection so that other fund members would not be required to subsidise administration costs. Officials also stated that the usual ‘early release’ arrangements would apply to these accounts and observed that it would be very difficult for an 18 year old to achieve access to these accounts because of the difficulty people in this age group have accessing unemployment benefits through Centrelink. Treasury noted that there would be costs to funds in setting up these accounts and that funds would make commercial marketing decisions on whether to establish them on a case by case basis. Treasury also advised that the contributor would not have control over these accounts – control would remain with the member as with other members of superannuation funds.

Age test for contributions

2.44 Superannuation law provides for an age and working hours test for older workers before they can make additional personal, non-compulsory contributions to a superannuation fund. The trustees can be penalised where the fund accepts contributions outside of these arrangements.

2.45 The TLA(S) Bill proposes to increase the maximum age limit for making the additional contributions from age 70 to age 75. It is proposed that these personal contributions not be deductible to the taxpayer to avoid the opportunity to exploit the tax concessions available through superannuation by ‘churning’. The concessions could be accessed on multiple occasions where an older person contributed to a fund, withdrew the amount, and recontributed. This is possible because older people have achieved the superannuation preservation age.

2.46 This change will not extend coverage of SG to those over 70. This is in contrast with the change in the age test for contributions from 65 to 70 years, when it did extend SG coverage.

Summary of views

2.47 The Committee is aware of a view that the deductibility of these contributions should not be removed without a full review of the contribution, payment and deductibility arrangements applying to superannuation. In this context, life expectancy is extending rapidly and many people may need to build superannuation later in life to fund a longer retirement.

2.48 ASFA remained concerned that the question of the ‘work test’ in respect of those over age 65 remains unresolved. According to ASFA the current arrangements applicable to contributions and benefit payments are bewildering and should be reviewed in the context of greater flexibility and the ageing of the workforce. In this context Taxpayers Australia sought an examination of why any person should be prevented from contributing to superannuation.

2.49 Treasury considered that the proposal did not provide any opportunity for abuse, for example, through estate planning. Officials also said that it was appropriate to have an upper age limit so that superannuation tax concessions were used for genuine retirement purposes.

Chapter 3

Conclusions and recommendations

3.1 The Committee welcomes any measures that support equitable improvements in workers' standards of living in retirement. Most of the measures in the package of bills being considered represent relevant improvements.

3.2 However, the majority of the Committee considers that two proposals would fail the test of equitable improvement. These are the proposals to reduce the surcharge rates and to change the SG contribution threshold.

3.3 The majority of the Committee considers that retirement incomes policy, including superannuation, should be reviewed as a package and not on an ad hoc basis. The Committee will address the adequacy of Australia's retirement incomes policy in its report on its current inquiry into superannuation and standards of living in retirement.

Quarterly SG contributions

3.4 The Committee concludes that it is appropriate for employers to be required to make SG contributions more frequently than annually. Indeed, Private Members' Bills have been introduced into the Parliament by ALP Parliamentarians on occasions that, had they been passed, would have implemented quarterly contributions much earlier. The Democrats have been on the public record calling for quarterly contributions for some time.

3.5 The Committee notes that the vast majority of businesses, especially large and medium sized businesses, already make quarterly or monthly contributions.

3.6 The Committee considers that the move to more frequent contribution payment for the remainder, mainly small businesses, would strengthen employer compliance with the SG and assist with protecting employee entitlements against business failure. Additionally contributions would earn more interest in the fund as they would be invested sooner.

Threshold earnings for SG

3.7 However, the majority of the Committee considers that the move to more frequent payments should not disadvantage any employee. The proposal to change the current monthly minimum threshold of \$450 to a quarterly earnings threshold of \$1,350 would remove tens of thousands of seasonal and casual employees from the superannuation system.

3.8 During the public hearings officials from the Department of the Treasury explained that one of the considerations in moving away from the monthly threshold was that the support of some business groups to more frequent SG payments was dependent on changing the minimum contributions threshold.

3.9 The majority of the Committee was concerned that, prior to the development of the proposal, Treasury did not consult with groups representing employees and that no modelling had been undertaken to support the move to a \$1,350 threshold. The majority of the

Committee expects that the Treasury should be in a position to provide analysis, including the number of employees likely to be affected and the alleged compliance cost savings to business, that would support any policy shift of this nature. It is not sufficient for Treasury and the ATO to talk in generalities of the number of employees affected and their 'general feeling' that this would result in savings for business.

3.10 The majority of the Committee notes that, while some employees would receive new contributions under the proposed arrangements, the vast majority of those affected would be disadvantaged, in particular the casual, seasonal and itinerant workers, especially young people and women.

3.11 The majority of the Committee concludes that it is inappropriate for employees to be denied current entitlements simply on the basis of saving costs for the employer.

3.12 The majority of the Committee also considers that there is a danger that employers already contributing more frequently than quarterly will be encouraged to move back to quarterly contributions as they may wish to make contributions when they determine eligibility, even if they only have a minority of employees who may earn less than \$1,350 a quarter. This would have a negative impact on superannuation earnings and on the security of superannuation contributions in the case of business failure.

3.13 The majority of the Committee supports:

- the proposed move to a minimum standard of quarterly SG payments by employers proceed; and
- the proposal to report to employees monthly on the amount of contributions paid and the destination of those funds by employers.

3.14 However the majority of the Committee does not support the proposal to change the monthly \$450 minimum contribution threshold to the proposed quarterly earnings threshold of \$1,350.

Surcharge rates

3.15 The Committee notes that the proposed reduction in the surcharge rate would cost revenue \$370 million per annum and that this would represent a significant tax cut to the top 3 per cent of salary earners.

3.16 The majority of the Committee do not support a tax cut for the wealthy. The majority of the Committee considers that the removal of the surcharge is best considered in the context of an overall review of the superannuation taxation and equity arrangements.

3.17 The majority of the Committee considers that the \$370 million cost of the surcharge reduction would be better directed to a reduction of the superannuation fund contributions tax. Such a measure would be more equitable, as it would apply to a greater number of people at lower incomes.

3.18 The Labor senators note that the ALP proposed on 16 May 2002 to introduce a fairer cut to the contributions tax for all Australians who pay it by 2 per cent or 3.5 per cent for those aged 40 or above.

3.19 Opposing the surcharge reduction, the splitting of spouse contributions and costly changes to the status quo for public sector superannuation, would fund the ALP plan. These changes total \$1,161 million, as confirmed by Treasury, which is enough to ensure the Budget neutrality of the measure.

3.20 The Labor senators further note that Treasury was unable to provide accurate costings of the ALP proposals to reduce the contributions tax.

3.21 Treasury was not able to provide estimates on how many people would benefit from the proposed surcharge reduction.

3.22 The majority of the Committee were extremely concerned that the Treasury could not provide costings and estimates on alternative proposals, or even the Government's proposals themselves, that are relevant to the Parliament's consideration of the proposed legislation. The majority of the Committee considers the early and accurate provision of costings to be a significant aspect of Treasury's responsibility to the Parliament.

Australian Democrats comment on contributions taxes

3.23 Recognising the very substantial advantages that high-income earners enjoy by way of tax concessions, the Australian Democrats consider that measures to reduce superannuation contribution taxes should be as progressive as possible. Whilst the Democrats in principle support a more targeted contributions tax reduction than that proposed by the ALP, it is recognised that such targeting would mean administrative complexities and higher costs for employers. Evidence brought forward in the current Senate inquiry into the adequacy of retirement savings and the superannuation tax regime should be useful in informing the debate on this issue.

Deduction limits for the self-employed

3.24 The Committee notes that the proposal to increase the deductions limits available for the self-employed will provide more opportunity for savings for retirement.

3.25 The Committee also notes that the arrangements applicable to the deductions available to the self-employed remain different from those available to employees. The Committee notes that these differences could be reviewed in the current Committee reference on the standards of living in retirement.

Superannuation contributions for children

3.26 The Committee supports any measure that would increase access to superannuation and develop a savings culture by young people. However, the majority of the Committee notes that most of the detail about how these accounts would operate will be in regulations that have not yet been developed, but are expected to be tabled in the Parliament this week.

3.27 The majority of the Committee considers that its task of reviewing the bills would have been more effective had the relevant detail been available.

3.28 The majority of the Committee notes that the costings prepared by Treasury on this measure have been varied down by 90 per cent since the pre-election figure, as a result of a dramatic drop in their estimate in the numbers of people likely to use these accounts.

3.29 The majority of the Committee notes that the proposal would have very limited appeal and that only the wealthy are likely to access the new arrangements.

Australian Democrats comment on superannuation contributions for children

3.30 The Democrats consider this measure to be open to abuse and will move to limit the tax benefits to those whose incomes are less than \$150,000 and argue that a cap on contributions for children should be set at \$30,000 per annum.

Age test for contributions

3.31 The Committee notes that the proposal to increase the age for making personal contributions assists the ability of older workers to save for their retirement. In this context the Committee is aware that many older workers have not had the advantage of a full working life under the compulsory SG system.

3.32 The Committee notes the Treasury view that there is no increased potential for the abuse of superannuation tax concessions through the implementation of this proposal.

Australian Democrats comment on the age test for contributions

3.33 The Democrats support this measure but question the need for any age limit on contributions.

Overall

3.34 The majority of the Committee supports the thrust of the two bills but has some concerns about aspects of the Taxation Laws Amendment (Superannuation) Bill (No 2) 2002, specifically the proposal to move to a quarterly earnings threshold under the SG arrangements and the reduction in the surcharge rates.

3.35 The Committee notes that the Government has indicated its intention to relocate the surcharge reduction amendments within the TLA(S) Bill to other bills, yet to be introduced, which will contain the co-contributions for low income earners measure.

3.36 The majority of the Committee considers that the proposed TLA(S) Bill should not proceed without removing the proposed change to the earnings threshold.

Recommendations

3.37 The majority of the Committee recommends that the Superannuation Guarantee Charge Amendment Bill 2002 be agreed to.

3.38 The majority of the Committee recommends that the Taxation Laws Amendment (Superannuation) Bill (No 2) 2002 not proceed in its current form. In particular, the majority of the Committee recommends that the amendments to reduce the rate of the surcharge and the changes to the SG threshold be removed from the Bill.

**Senator the Hon Nick Sherry
Deputy Chair**

Senator Lyn Allison

Senator Geoffrey Buckland

Senator John Hogg

**Government Senators' Report on
Taxation Laws Amendment (Superannuation)
Bill (No. 2) 2002, and
Superannuation Guarantee Charge
Amendment Bill 2002**

Chapter 1

Introduction

Referral of bills to the Committee

1.1 The Taxation Laws Amendment (Superannuation) Bill (No 2) 2002 and the Superannuation Guarantee Charge Amendment Bill 2002 were referred to the Committee by the Selection of Bills Committee on 19 June 2002, for inquiry and report by 26 June 2002.

1.2 Both bills were introduced into the House of Representatives on 16 May 2002 and the Senate on 19 June 2002.

1.3 In referring the bills to the Committee, the Selection of Bills Committee identified that the Committee should:

- examine the impact of the bills in relation to requiring employers to make at least quarterly superannuation contributions on small and large business;
- consider the impact on casual and part-time wage earners of amending the superannuation guarantee earnings threshold to \$1,350 per quarter;
- consider the costing and number of persons impacted by these provisions; and
- consider whether the proposed amendments confer an unfair tax cut to only high income earners.

Conduct of the inquiry

1.4 There was a very short time in which to conduct the inquiry. Nevertheless the Committee received a number of submissions and other material in connection with the bills. The submissions are listed at **Appendix 1**. The other material is listed at **Appendix 2**.

1.5 The Committee met in public to consider the bills on 20 June 2002. A list of those who gave evidence at the public hearing is at **Appendix 3**.

Purpose of the bills

Taxation Laws Amendment (Superannuation) Bill (No 2) 2002

1.6 In the Explanatory Memorandum to the Bill, the Government indicated that the main purpose of the Taxation Laws Amendment (Superannuation) Bill (No 2) 2002 [TLA(S) Bill] is to implement five measures designed to enhance the overall attractiveness, accessibility and security of superannuation by:

- requiring employers to make at least quarterly superannuation contributions on behalf of their employees;
- reducing the superannuation surcharge rates by one-tenth of their current level each year for the next three years;

- allowing superannuation contributions to be made on behalf of children who would not otherwise have superannuation;
- increasing the deduction limit for personal superannuation contributions made by the self-employed; and
- increasing from 70 to 75 the age up to which working members of superannuation funds can make personal superannuation contributions.

1.7 The bill also includes a range of changes to the *Superannuation Guarantee (Administration) Act 1992*, a number of technical amendments to correct legislative oversights arising from the *Taxation Laws Amendment (Superannuation) Act (No 1) 2002* (which enables superannuation to be paid to temporary residents who permanently depart Australia), the *Taxation Laws Amendment Act (No 5) 2001* (which provides for a constitutionally protected fund to change status to a taxed fund) and the *Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Act 2001* (which ensures the appropriate tax treatment is applied to superannuation interests which may be split).

1.8 Four of the five measures contained in the Bill are planned to take effect from 1 July 2002, with the exception being the introduction of the quarterly Superannuation Guarantee (SG) regime which will commence from 1 July 2003.

1.9 The five main measures were foreshadowed in the Government's election policy statement, *A Better Superannuation System*, released on 5 November 2001. In line with this statement, the implementation of these measures was announced in the 2002-2003 Federal Budget. The changes to the SG and the minor technical amendments had not previously been announced. In particular, the change to the threshold wage level required for entitlement to the SG was announced on Budget night.

Superannuation Guarantee Charge Amendment Bill 2002

1.10 The main purpose of the Superannuation Guarantee Charge Amendment Bill 2002 [SG Bill] is to provide for the quarterly imposition of SG contributions. These amendments, which were announced in the Government's election policy statement, are planned to commence from 1 July 2003.

Government's proposed change to the legislation

1.11 Just prior to the commencement of the public hearing on the bill on 20 June 2002, the Committee was advised by the Minister for Revenue and Assistant Treasurer, Senator the Hon Helen Coonan, that the Government had decided to relocate the amendments reducing the surcharge into the bills implementing the co-contribution.¹

1.12 In her letter to the Committee, which was tabled at the hearing, Senator Coonan advised that:

1 Under this proposal the Government intends to match the personal superannuation contributions of low income earners up to an annual amount of \$1,000. The maximum co-contribution would apply to those on or below an income of \$20,000 and would taper off for those on incomes between \$20,000 and \$32,500.

The Superannuation (Government Co-contribution for Low Income Earners) Bill 2002 and the Superannuation Legislation Amendment Bill 2002 will introduce the co-contribution measure and the reduction in the surcharge as a package. As these two measures are designed to encourage saving for retirement, packaging them together will co-locate measures that make superannuation contributions more attractive for both higher and lower income earners. The bills will highlight the fact that the Government's superannuation initiatives were designed as a balanced set of measures.

Regulations

1.13 The Committee was also advised by Treasury officials at the hearing that further detail relating to the implementation of the measures proposed in the legislation would be included in regulations which are yet to be developed, but were expected to be tabled in the Parliament this week.

Issues arising during the inquiry

1.14 A number of issues arose during the inquiry, which are discussed in the next section of the report. In addition a number of technical matters, which were not canvassed during the public hearing, were addressed in submissions.

1.15 In relation to the SG regime, the issues discussed in the report include:

- quarterly payments of the SG;
- monthly reporting; and
- the minimum earnings threshold.

1.16 The other issues discussed in the report include:

- the surcharge rates;
- deduction limits for the self-employed;
- superannuation contributions for children; and
- the age test for contributions.

Chapter 2

Issues

Quarterly Superannuation Guarantee Contributions

2.1 Under current SG arrangements compulsory employer contributions are required no more frequently than annually. However, most employers, around 85 per cent, make more frequent contributions (quarterly or more frequently) because the trust deed of the fund nominated in a workplace arrangement (frequently an award) requires more frequent (usually monthly) contributions.

2.2 Under the SG arrangements employers are not required to make contributions where an employee earns less than \$450 in a month.

2.3 The SG Bill proposes to require employers to make quarterly contributions as a minimum standard.

2.4 The TLA(S) Bill also proposes to:

- introduce a new employer reporting requirement so that employers will be required to advise their employees both the amount of contributions and the receiving fund on a monthly basis; and
- amend the minimum earnings threshold, which needs to be achieved before SG contributions are made, from \$450 per month to \$1,350 per quarter.

Summary of views

Quarterly payments

2.5 There have been many calls for more frequent SG contributions since the scheme commenced in the early 1990s. All of the representations and evidence provided to the Committee on this issue, including by the Australian Industry Group (AIG), supported the need for at least quarterly payments. Some, including the Australian Council of Trade Unions (ACTU), the Industry Funds Forum (IFF), and Association of Superannuation Funds of Australia (ASFA) supported compulsory monthly employer payments.

2.6 Many organisations, such as the ACTU and ASFA, noted that the move away from annual contributions would improve the protection of employee entitlements against employer failure and provide more investment returns because funds will be invested sooner. In addition, some organisations, such as the ACTU and IFF, pointed out that the move will also assist competition between businesses so that those which make more frequent contributions will no longer be disadvantaged.

2.7 The ACTU advised the Committee that many employers, who currently make monthly contributions under an award or fund trust deed, might think that they could now pay quarterly. The Union suggested that the Government organise an information campaign to advise employers that they are still bound by those arrangements. In response to this

suggestion, officials from the Australian Taxation Office (ATO) indicated that the Government has allocated money for an information campaign on the SG changes.

2.8 The IFF considered that some employers might inadvertently make late payments of contributions, especially in the transition to the new quarterly system. Where this happens, they believe that the employer should not be liable to pay the charge amount as well. If such payments are required for late payments then the amount should be limited to the penalty and should not include the contributions as well. This is because the contributions have already been paid and they should not be duplicated through the application of the charge. In any event, in the view of the IFF, contributions should go direct to the fund, and not to the ATO for distribution to the fund, and penalty amounts only should be paid direct to the ATO.

2.9 In April 2001 the former Senate Select Committee on Superannuation and Financial Services reported on the enforcement of the Superannuation Guarantee Charge.¹ That Committee heard almost unanimous support for more frequent (than annual) SG payments to address many of the problems arising from SG non-compliance. In its report, the Committee recommended that the requirement for compulsory SG contributions by employers, where it is not currently monthly, be varied to provide for quarterly payments.

2.10 The Committee welcomes the Government response to the Committee's report that was tabled on 20 June 2002, and which has addressed one of the Committee's recommendations by the introduction of the SG Bill.

Monthly reporting

2.11 As noted above, the TLA(S) Bill proposes to introduce a requirement for employers to report contribution amounts to members of accumulation funds within 30 days of the contribution being made.

2.12 Most of the evidence to the inquiry, including that from ASFA, IFF, and the ACTU, supported the proposed reporting requirements. They were seen as a means of heightening member interest and awareness in their superannuation, and a better way of following up missing contributions sooner than is presently the case.

2.13 However, the Corporate Super Association submitted that the proposal may be too prescriptive and that it was concerned about the systems impact and the practicalities of such a requirement. The Association suggested instead that discretion be provided in the legislation regarding the frequency of reporting, and that reporting annually as part of the annual PAYG tax summary would be sufficient.

Minimum earnings threshold

2.14 There is widespread criticism in all of the submissions to the Committee of the proposal to move the earnings threshold from \$450 a month to \$1,350 per quarter. Submissions and evidence noted that the proposal would take away superannuation support from some groups of employees currently eligible to receive benefits, including seasonal workers, casual workers and women. The Investment and Financial Services Association (IFSA) also noted that many of these would be young people and that the reduction would go

1 Senate Select Committee on Superannuation and Financial Services, *Enforcement of the Superannuation Charge*, April 2001.

against the Government's principles of extending superannuation coverage, especially over the whole of life.

2.15 Witnesses indicated that it would be very difficult or even impossible to quantify the number of employees that would be disadvantaged by this proposal. However, the ACTU thought that at least 100,000 workers could be affected.

2.16 The Treasury, while agreeing that some employees will be disadvantaged, noted that some employees who currently miss out could receive contributions for the first time under the proposal. The Treasury indicated that, in determining the proposed threshold and its impact, some modelling had been done in this area but they were unable to provide the Committee with estimates of the number of employees who would lose SG coverage.

2.17 ASFA considered that a move to a quarterly threshold may provide employers with an opportunity to manipulate employee work rosters to avoid making superannuation contributions. This view was reinforced by the ACTU.

2.18 Groups such as the Australian Consumers' Association (ACA), IFF and CPA Australia (CPA) indicated their preference to retain the current monthly threshold, with one organisation, the Institute of Chartered Accountants in Australia (ICAA), suggesting that the threshold could be removed entirely.

2.19 Taxpayers Australia Inc and Superannuation Australia (Taxpayers Australia) provided a submission supporting the move to a quarterly threshold. In their view this is necessary to balance the additional costs to the employer of administration and reporting. They also saw this proposal as one way to reduce the impact of fund administration fees on small account balances.

2.20 The ATO and Treasury were unable to quantify the alleged compliance cost savings to business as a result of this change. The ATO commented that the cost savings were, at this stage, 'just a general feeling', as opposed to any 'specific dollar amounts'.

Surcharge rates

2.21 The surcharge on superannuation contributions will be applied from 1 July 2002 where a high income earner receives income (including super contributions) of over \$90, 527 in the year. The full 15 per cent rate applies where the income is in excess of \$109, 924 per annum. The surcharge applies in addition to the tax on fund income (contributions and interest) in the hands of the fund.

2.22 The TLA(S) Bill proposes to reduce the 15 per cent rate in three steps from 1 July 2002 until the maximum rate is 10.5 per cent from 1 July 2004.

Summary of views

2.23 In March 1997 the former Senate Select Committee on Superannuation reported on the surcharge legislation.² At that time evidence received by the Committee was overwhelmingly critical of the surcharge. Serious objections were raised on constitutional,

2 Senate Select Committee on Superannuation, *Superannuation Surcharge Legislation*, March 1997.

equity, administrative and complexity grounds. The industry has been consistently opposed to the surcharge ever since.

2.24 The Committee is currently conducting an inquiry into superannuation and standards of living in retirement.³ Most individuals and organisations that have made submissions on that reference have raised the surcharge as an important issue. The vast majority of those submissions supported the removal of the surcharge.

2.25 However, in respect of the winding back of the surcharge as proposed in the TLA(S) Bill, the evidence is more mixed. Many, for example, ASFA, IFSA, CPA, Taxpayers Australia, the ICAA and the Society of Superannuants (SOS), supported the proposal on the grounds that they support any move to reduce front-end taxes on superannuation. Taxpayers Australia supported the removal of the surcharge entirely.

2.26 IFSA considered that equity in the distribution of taxation considerations is best considered not through an annual surcharge, but through a lifetime measure such as the Reasonable Benefit Limits (RBLs). The Association considered that any debate on the removal of front-end superannuation taxes was a welcome development supporting a savings culture and noted that, in an ideal world, the contributions tax would also be removed. In IFSA's view, the surcharge reduction is important because it is the first attempt by any Government to reduce front-end tax.

2.27 The ICAA and CPA noted the burden of administration imposed by the surcharge. Both organisations submitted that the proposal weakened the revenue base and made the compliance costs an even higher proportion of the revenue. The ICAA also called for the public to be fully advised of the uses of surcharge data, so that those paying the costs could be better informed.

2.28 Others such as the ACTU and Australian Institute of Superannuation Trustees (AIST), opposed the proposal because it represented a \$370M tax cut for the top 3 per cent of taxpayers. These groups would prefer that the money be used to finance a cut in the fund contributions tax.

2.29 The ACA indicated that, while it supported any move to reduce front-end taxes, it would prefer a cut to the contributions tax over a cut to the surcharge because it would benefit all fund members. ASFA also commented that it supported a cut to the contributions tax, as proposed by the ALP, as 'everyone would get a reduction'.

Deduction limits for the self-employed

2.30 Under superannuation law, superannuation contributions for the self-employed are deductible. The tax deduction is limited to the initial \$3,000 of contributions plus 75 per cent of any additional contributions up to the age based deductible limit. The annual limits in the 2001–2002 year are \$11,912 for those aged under 35; \$33,087 for those between ages 35 and 49; and \$82,054 for those over age 50.

3 The term of reference are: The adequacy of the tax arrangements for superannuation and related policy to address the retirement income and aged and health care needs of Australians. Referred 14 March 2002; report due 26 September 2002.

2.31 The TLA(S) Bill proposes to increase the initial amount from \$3,000 to \$5,000 per annum.

Summary of views

2.32 All of the submissions and evidence supported the proposal. However, views were expressed by ASFA, CPA and the ICAA that the tax concessions available to the self-employed should be the same as for employees. According to these groups such a move would suit the remuneration policies now in place. Treasury noted that different arrangements existed for the deductibility of contributions for the self-employed and for employees. They indicated that bringing the self-employed into line with the employee limits would have budgetary implications.

2.33 The CPA asked for consideration to be given to allowing member specific age based deductible contributions to be cumulative. In their view, this would provide more flexibility so that contributions could be made as funds were available.

2.34 IFSA, while supporting the proposal, also called for automatic indexation of the annual threshold, in line with the treatment of many other amounts in the superannuation system.

Superannuation contributions for children

2.35 Superannuation law generally requires that a contributory member of a superannuation fund needs to be employed. An exception is that fund members who are employed can make contributions in respect of a non-working spouse.

2.36 The TLA(S) Bill proposes to extend the category of people who can have contributions made on their behalf to children under the age of 18. Employees over the age of 18 generally receive compulsory employer SG contributions.

2.37 It is intended that parents, relatives and friends may contribute up to \$3,000 in respect of a child in a three year period. Such contributions will be tax free in the hands of the superannuation fund.

Summary of views

2.38 Very little evidence was received on this issue. Of those who commented there was widespread support for the proposal. Witnesses nonetheless thought that the proposal would have limited appeal.

2.39 The ACTU noted that the arrangement could provide the rich with an opportunity to take advantage of the tax concession because these contributions will be untaxed in the hands of the fund.

2.40 The ACA considered that minors could be denied control over funds in contrast to the position of employed minors.

2.41 ASFA noted that the list of categories of people who could make contributions is complex and suggested that the rules could be replaced with the provision for any person to be able to accumulate superannuation where they are in receipt of taxable income. ASFA noted that the usual age and RBLs would apply to these accounts.

2.42 Taxpayers Australia suggested that self-managed funds could be permitted to accept contributions so that all children could be members under the membership limits for these funds. They also urged that contributions in respect of children should be member protected in the same way as SG contributions.

2.43 The Treasury indicated that child accounts would not be subject to internal fund member protection so that other fund members would not be required to subsidise administration costs. Officials also stated that the usual ‘early release’ arrangements would apply to these accounts and observed that it would be very difficult for an 18 year old to achieve access to these accounts because of the difficulty people in this age group have accessing unemployment benefits through Centrelink. Treasury noted that there would be costs to funds in setting up these accounts and that funds would make commercial marketing decisions on whether to establish them on a case by case basis. Treasury also advised that the contributor would not have control over these accounts – control would remain with the member as with other members of superannuation funds.

Age test for contributions

2.44 Superannuation law provides for an age and working hours test for older workers before they can make additional personal, non-compulsory contributions to a superannuation fund. The trustees can be penalised where the fund accepts contributions outside of these arrangements.

2.45 The TLA(S) Bill proposes to increase the maximum age limit for making the additional contributions from age 70 to age 75. It is proposed that these personal contributions not be deductible to the taxpayer to avoid the opportunity to exploit the tax concessions available through superannuation by ‘churning’. The concessions could be accessed on multiple occasions where an older person contributed to a fund, withdrew the amount, and recontributed. This is possible because older people have achieved the superannuation preservation age.

2.46 This change will not extend coverage of SG to those over 70. This is in contrast with the change in the age test for contributions from 65 to 70 years, when it did extend SG coverage.

Summary of views

2.47 The Committee is aware of a view that the deductibility of these contributions should not be removed without a full review of the contribution, payment and deductibility arrangements applying to superannuation. In this context, life expectancy is extending rapidly and many people may need to build superannuation later in life to fund a longer retirement.

2.48 ASFA remained concerned that the question of the ‘work test’ in respect of those over age 65 remains unresolved. According to ASFA the current arrangements applicable to contributions and benefit payments are bewildering and should be reviewed in the context of greater flexibility and the ageing of the workforce. In this context Taxpayers Australia sought an examination of why any person should be prevented from contributing to superannuation.

2.49 Treasury considered that the proposal did not provide any opportunity for abuse, for example, through estate planning. Officials also said that it was appropriate to have an upper age limit so that superannuation tax concessions were used for genuine retirement purposes.

Chapter 3

Government Senators' conclusions and recommendations

3.1 Government Senators support the package of measures outlined in the Superannuation Guarantee Charge Amendment Bill 2002 (SG Bill) and the Taxation Laws Amendment (Superannuation) Bill (No. 2) 2002 (TLA(S) Bill).

3.2 Government Senators consider that both bills contain important proposals that will make superannuation more attractive and accessible to all Australians. They believe that it is crucial to secure the place of superannuation as a key element underlying safe and comfortable retirements for all Australians. They want to ensure that superannuation is sustainable, administratively simple and easily understood by Australians, and consider that the bills assist the aims of providing encouragement to individuals to save for retirement, while ensuring protection of employee entitlements.

3.3 Government Senators note the strong support for most aspects of the bills in the evidence provided in submissions and at the public hearing on 20 June 2002. While concerns were expressed by some in relation to the change to the quarterly income threshold below which SG is not payable, Government Senators consider that the overall effect is likely to be minor although, over a period of time, it may be significant for some. Government Senators also note concerns expressed in relation to the reduction in the surcharge rate. However, they consider that these proposals form part of a broader package of measures and that the passage of the bills should not be delayed, in the interests of developing a more attractive, accessible and secure superannuation system.

Quarterly superannuation guarantee

3.4 Government Senators consider that there was overwhelming support for employers' SG contributions to be paid more frequently than annually, as proposed in the SG Bill. The Committee was advised by a number of submitters, including the ACTU, IFF and ASFA, that the majority of employers (approx 85 per cent) are already making more frequent contributions than the current annual requirement, many on a monthly basis.

3.5 Amongst others, the National Farmers' Federation and the Australian Industry Group (AIG) echoed the general support for the proposal on the grounds that it would 'contribute to further improving the fairness, efficiency and security of the superannuation system.' Government Senators note that the proposed quarterly requirement is a minimum benchmark only and that there is no impediment to more frequent payment of superannuation contributions, for example, on a monthly basis, in line with the present practice of many employers.

3.6 Government Senators note the strong support for the move to quarterly superannuation contributions because of the benefits that will result to employees in terms of ensuring greater compliance and security of contributions especially in relation to insurance and the potential for insolvency and bankruptcy. They note that increased investment returns

are likely as a result of earlier investment. In particular, they note that the measure provides increased security of benefits for employees by:

- reducing the risk that a full year's superannuation contributions could be lost due to insolvency or bankruptcy;
- providing for improved coverage of death and disability insurance available through superannuation by ensuring more frequent payment of contributions and therefore reduced the risk of lapsed coverage; and
- improving employees' knowledge and understanding of their superannuation entitlements resulting in the potential for early notification of difficulties regarding payment of contributions and incentives for consolidation of disparate contributions.

3.7 Government Senators note that employers may also benefit from the measure, including from reduced administration costs associated with quarterly rather than annual contributions. In particular, benefits may result from the potential for:

- achieving interest savings that could result from the accrual of smaller SG shortfall amounts over a quarter rather than over a full year;
- receiving early warning of possible problems regarding the level of contributions and the opportunity to rectify these leading to reduced SGC payable over the year; and
- developing better business practices, especially by small business, and thereby avoiding large annual outlays.

Monthly reporting

3.8 Government Senators note the support for the proposed requirement for monthly reporting of SG contributions and their destination to employees. However, they consider that alternative proposals could be examined, such as including this information on PAYG Payment Summaries (formerly Group Certificates) or on payslips. They note that neither of these proposals would result in the need for development of any new documentation.

Threshold earnings for SG

3.9 Government Senators note the advice from Treasury officials that the rationale for the move to a quarterly earnings threshold is to align the threshold with the proposed quarterly payment of superannuation contributions. They also note that quarterly SG payments are also intended to align with other tax obligations, including the payment of the GST and PAYG taxation arrangements.

3.10 Government Senators also note that, in the view of Taxpayers Australia, 'the costs, commissions and administration fees would be slashed' under the measure, that this would greatly advantage employees with small SG entitlements by allowing more funds to accumulate after payment of fees and that the proposal would fulfill the aim of 'protecting employees' entitlements from unscrupulous employers.'

3.11 While Government Senators note the concerns of many witnesses about the proposed change to the earnings amount below which SG is not payable, that is, from \$450 per month to \$1,350 per quarter, they consider that the issue is minor and that the effect on superannuation contributions overall is likely to be small although, over a period of time, it may be significant for some.

3.12 Government Senators note that the measure provides flexibility for some casual and part-time workers who may earn more than the threshold per month and would therefore be entitled to receive more in terms of contributions under the new measure than they do presently. The Australian Taxation Office (the ATO) advised the Committee that workers earning more than the threshold amount per month will receive the benefit of the accumulation of each month's SG over three months, rather than the amount for the third month only, as would be the case at present.

3.13 Government Senators consider that the measure should be seen as part of a package that will assist in delivering a safer, more accessible and less complex system. They believe that the benefits resulting from the measure both for employees (in terms of increased security through better industry compliance and increased insurance coverage), and for employers (in terms of reduced compliance costs) outweigh the disadvantages that might affect a small number of superannuants.

Surcharge rates

3.14 Government Senators strongly favour the move to reduce the superannuation surcharge rate by one tenth of current levels in each of the following three years commencing from 1 July 2002, that is to 13.5 per cent for 2002-2003, 12 per cent for 2003-2004 and 10.5 per cent for 2004-2005. They note that this is the first time that there has been a reduction in front-end taxes and they encourage the continuation of this approach. They welcome the proposed surcharge reduction as a strong signal that this front-end tax may ultimately be removed in favour of less costly and less complex measures that are based on a view of superannuation as a lifetime savings vehicle.

3.15 Government Senators note that the surcharge is administratively costly and that this cost is borne by all members. They consider that the surcharge is a complex and inefficient tax and strongly supports any amelioration of its impact, noting that the surcharge is due for review within three years. In this context, they support any proposal to wind back the surcharge in the interim, with a view to increasing the attractiveness of superannuation and encouraging all employees to save their retirement through contributing to superannuation schemes.

3.16 Government Senators do not believe that it is the role of the Department of the Treasury to provide costings on alternative non-government proposals regarding the surcharge.

Deduction limits for the self-employed

3.17 Government Senators agree with the proposal to increase the threshold tax-deductible limit for self-employed persons from \$3,000 to \$5,000 because it provides further incentive for self-employed people to become more self-reliant and to save for retirement by contributing to superannuation. They note the widespread support for the proposal.

Superannuation contributions for children

3.18 Government Senators support the further breakdown of the nexus between superannuation and employment, while noting that the option to make contributions for the benefit of children under 18 will be subject to commercial decisions to offer such products by superannuation funds. They note that the measure extends the opportunity for those who are

not employed to have access to superannuation, a situation that already exists in respect of contributions made by fund members on behalf of their non-working spouses. Government Senators are in favour of the development of this type of product because the tax advantages that accrue to superannuation contributions would make such products good investments.

3.19 Government Senators consider that alternative investments such as education bonds provide only limited returns on investment and that superannuation contributions made on behalf of a child will help create a culture that gives priority to planning ahead and achieving financial self-reliance. They also support the measure as enhancing superannuation as a lifetime savings strategy by deepening and broadening the base from which contributions may be made.

Age test for contributions

3.20 Government Senators agree with the proposal to increase the age threshold for accepting superannuation contributions provides further opportunity for older workers to save for their retirement. They note that previous Senate Select Superannuation Committees have supported the proposal and that it is in accord with the present thrust of government policy. Government Senators also support the proposal in light of Australia's ageing population and workforce, and the reduced fertility levels that are resulting in fewer replacement workers. They consider that the proposal underpins the notion of greater value for older workers whose corporate knowledge is extensive and critical to businesses. They note the widespread support for this proposal on the basis that, like the proposal to allow superannuation contributions to be made on behalf of children, it enhances the 'whole of life' nature of superannuation by deepening and broadening the base from which contributions may be made.

Overall conclusions and recommendations

3.21 Government Senators note the overwhelming support for quarterly superannuation guarantee contributions as proposed by the SG Bill.

3.22 Government Senators consider that the evidence provided to the Committee overwhelmingly supported the general thrust of the TLA(S) Bill. While observing that the majority of submitters preferred that the income threshold for SG be maintained at \$450 per month rather than \$1,350 per quarter, Government Senators consider that this measure is part of a package and that the bill should not be delayed as a result of this concern.

3.23 In relation to the proposed reduction in the superannuation surcharge, Government Senators note that a number of submitters preferred full abolition of the surcharge but that, failing this, the measure was supported because it provides for a reduction in front-end taxes for the first time. They also note that views regarding the reduction in the surcharge have changed over time, and that the measure was largely supported in submissions and in evidence given to the Committee.

3.24 Government Senators do not consider that the reservations expressed in relation to the two issues noted above are sufficient to warrant delaying the passage of the TLA(S) Bill, particularly in view of the Government's announcement to relocate the amendments reducing the surcharge into the bills designed to implement the co-contribution. They consider that, on the contrary, the SG and TLA(S) bills provide for a more attractive, accessible and secure superannuation system and their passage would serve the interests of ensuring comfortable retirements for all Australians.

3.25 Government Senators recommend that the Superannuation Guarantee Charge Amendment Bill 2002 be agreed to.

3.26 Government Senators recommend that the Taxation Laws Amendment (Superannuation) Bill (No. 2) 2002 be agreed to.

Senator John Watson

Senator Grant Chapman

Senator Ross Lightfoot

Chair

Appendix 1

Submissions

ACTU

ASFA

Australian Consumers' Association

Australian Industry Group

Corporate Super Association

CPA Australia

IFSA

Industry Funds Forum

Institute of Chartered Accountants in Australia

National Farmers' Federation

Society of Superannuants

Taxpayers Australia Inc and Superannuation Australia

Appendix 2

Additional Information

AIST media releases:

- ‘More super for all employees from 1 July’, 9 April 2002;
- ‘Milestones or landmines – superannuation budget changes’, 13 May 2002;
- ‘Trustees comment on super surcharge change’, 17 May 2002; and
- Trustee Alert, ‘Trustees and the Budget Measures’, dated May 2002.

Correspondence from the Minister for Revenue and Assistant Treasurer, Senator the Hon Helen Coonan, dated 20 June 2002, regarding ‘Superannuation Surcharge and Government Superannuation Co-contribution’.

Correspondence from the Taxation Institute of Australia dated 17 June 2002.

Correspondence from IFSA dated 24 June 2002.

Correspondence from ASFA dated 25 June 2002.

Appendix 3

Witnesses

Public hearing: Thursday, 20 June 2002, Canberra

Association of Superannuation Funds of Australia Ltd

Dr Michaela Anderson, Director, Policy and Research
Mr Robert Hodge, Senior Policy Adviser (Tax)

Australian Consumers Association

Ms Catherine Wolthuizen, Senior Policy Officer, Financial Services

Australian Council of Trade Unions

Ms Linda Rubinstein, Senior Industrial Officer

Investment and Financial Services Association Ltd

Mr Richard Gilbert, Deputy Chief Executive Officer

Department of the Treasury and Australian Taxation Office(ATO)

Mr Roger Brake, General Manager, Retirement and Personal Income Division,
Department of the Treasury

Mr Raphael Cicchini, Manager, Superannuation Unit, Department of the
Treasury

Ms Rosemary Deininger, Manager, Retirement Policy and Incomes Unit,
Department of the Treasury

Mr Alan Mallory, Director, Superannuation, ATO

Mr Nigel Murray, Acting Assistant Commissioner, ATO

