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HOUSE OF REPRESENTATIVES

BILLS

**Tax and Superannuation Laws Amendment
(2015 Measures No. 4) Bill 2015**

Second Reading

SPEECH

Monday, 14 September 2015

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Questioner
Speaker Leigh, Andrew, MP

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Dr LEIGH (Fraser) (12:00): At the outset I should say that Labor's position is to support the Tax and Superannuation Laws Amendment (2015 Measures No. 4) Bill 2015. I expect that would not be surprising to anyone who has been following the debate on this bill, given that two-thirds of the bill are measures from previous Labor budgets.

The bill implements previous Labor integrity measures on capital gains tax, rollovers and lost member superannuation accounts and it unifies the tax treatment of all civilian and Australian government employees who work overseas.

It is greatly pleasing that the Abbott government is proceeding with some of the measures that Labor had planned to implement. Up until recently you could be forgiven for thinking that the sole raison d'être of the Abbott government was to tear down prior achievements of Labor governments, so it is good to see a tax and superannuation laws amendment bill that indeed implements these sensible integrity measures.

Going to schedule 1, improving the integrity of the scrip-for-scrip rollover, we welcome the government's move to implement our integrity measures on scrip-for-scrip rollovers. The scrip-for-scrip rollover regime ensures that tax considerations are not an impediment to takeovers or mergers involving companies or trusts.

Recent court cases have shed light on the tax minimisation opportunities arising from ambiguity in the existing legislation. This reform, first announced by Labor in 2012, prevents entities from indefinitely deferring capital gains tax obligations and brings greater consistency to the taxation of trusts.

Schedule 2 is the exemption of income earned in overseas employment. The opposition is comfortable with the government's efforts to boost the integrity of our personal income tax system by standardising the tax treatment for workers delivering overseas development assistance. This integrity measure improves the consistency of our personal income tax system by upholding the principle that Australians should pay tax on their earnings somewhere.

This provision was originally introduced to ensure that aid workers working overseas were not taxed on their income both in Australia and in the source country. However, the provision no longer serves this purpose, with Australians working overseas often able to avoid income tax in both jurisdictions.

While we welcome efforts to tighten the tax net, I would contrast the government's approach to the issue of double taxation of individuals with its approach to the double taxation of corporations. Earlier this year Labor announced a multinational tax package, which included a measure for tackling hybrid instruments. What we were allowing the Australian Taxation Office to do under our proposal was to look at how a hybrid instrument was treated by an overseas jurisdiction, essentially to ensure that a hybrid instrument could not, effectively, avoid tax in multiple jurisdictions.

So it is striking that, while the government are willing to tackle this issue in the case of aid workers, they are not willing to tackle the same issue when it comes to big multinational corporations. The principle is a sensible one. Multinational corporations are looking at how a hybrid instrument is treated by the tax regime of another country and how it is treated by the Australian Taxation Office. The ATO should not be blind to the way in which an overseas tax office treats a hybrid instrument.

Unfortunately, while the Treasurer has been talking about acting on multinational tax for over a year we, again, see promises, coming out today, that he will act. But we are yet to see actual legislation. By contrast, Labor's multinational tax plan, announced in the first half of this parliamentary term, raises more than \$7 billion over the decade, is informed by work in the OECD and is carefully costed by the Parliamentary Budget Office.

Schedule 3 of this bill is the small lost member account threshold. Labor will support raising the threshold at which the government collects small lost member superannuation accounts.

Labor invented Australia's universal superannuation system and it was hard fought by the coalition at the time. When the Keating government introduced universal superannuation in the early 1990s those opposite rallied against universal superannuation. They promised, before the 1996 election, not to tinker with superannuation but then froze the superannuation contribution rate throughout the period of the Howard government.

Again, history repeated itself because, in 2013, the opposition promised that they would not make adverse unexpected changes to superannuation but went ahead and froze the superannuation contribution rate at 9½ per cent, not allowing it to continue on its planned trajectory through to 12 per cent, which would have guaranteed a more dignified retirement for many Australians.

The system of collecting lost member accounts is sensible. It is easy for Australians to be reunited with their lost superannuation accounts, using a simple tool available on the tax office website. But the decision that the government has made in the past is that, when accounts fall below a certain amount, they should be transferred to the Australian Taxation Office to ensure that they are not completely eaten up in fees and charges. Many young people know the experience of moving from casual job to casual job, ending up with a motley of superannuation accounts and wanting to consolidate those accounts.

Before we had the lost super regime, those accounts would often just be gone within a matter of months. Thanks to the lost super regime, those accounts, when found, actually contain a reasonable chunk of money—about what the individual put in.

In May 2012 Labor increased the threshold at which an account would be shifted to the Australian Taxation Office from \$200 to \$2,000. In the 2013 budget Labor proposed an incremental increase in the threshold from \$2,000 to \$6,000. I note in passing that, when it comes to unclaimed moneys, the coalition is happy to run a scare campaign and crazy talk of 'trouserising', with the suggestion that anyone who believes in a different duration after which bank accounts should be moved to the government is somehow trying to steal people's money. At the same time, we have a government bill in the House whose effect is going to be to move more superannuation accounts into the government.

The principle in both cases is the same: we want to make sure that people who have lost their bank account or superannuation account do not find it again but discover there is nothing in it. Yet we also want to guard against the possibility that someone who simply has not accessed an account for a while may not want it transferred to the government. The thresholds—duration or financial as they are—aim to get that balance right, but the government is clearly pursuing a somewhat different approach to superannuation accounts from what it is with bank accounts.

In the spirit of constructive bipartisanship Labor will support this measure, and we do so knowing that, as of 30 June this year, over 14 million Australians have a super fund account and approximately 45 per cent of these people have more than one superannuation account. We know through figures from the Australian Prudential Regulation Authority that the median figure for fees and charges for low-cost superannuation accounts is \$532 a year. So, if you have a super balance of \$1,000, you will see it entirely eroded by fees and charges in a couple of years. That is the principle of lost super laws, which see accounts moved to the tax office when they fall below a certain threshold—currently \$2,000 and, under this bill, \$6,000. These measures will, hopefully, ensure that low-wage workers and those working casual jobs are able to retire in more dignity knowing that their accounts have not been eaten away by fees and charges.

At the same time, you cannot talk about superannuation in this place without acknowledging that there is only one party of government in this parliament who believes that our superannuation tax concessions are not fair and are not sustainable. The age pension is set to grow around five per cent a year over the next four years. The government says that the age pension is out of control because of that, but superannuation tax concessions are growing at more than four times this rate. The earnings concessions alone are set to double over the next four years to more than \$30 billion. It will soon be the case that we spend more on super tax concessions than we spend on the age pension entirely. A Grattan Institute report on tax reform found that more than half of the benefits of superannuation tax concessions go to the top 20 per cent of households. Indeed, the top one per cent of households gain more from our super tax concessions than the bottom 40 per cent.

To improve the fairness and sustainability of our superannuation system, the opposition has made clear that we will ensure that earnings in excess of \$75,000 in the retirement phase are taxed at a concessional rate of 15 per cent rather than being tax-free. This represents a partial unwinding of one of Peter Costello's many imprudent decisions in the later phase of the Howard government, this one removing entirely the tax-free status of earnings in the pension phase. That is a measure which has disproportionately benefited high-income earners and done little to take pressure off the age pension but instead had the effect of acting as a windfall for those who are able to recycle their earnings through the superannuation system. Labor does not propose to entirely reverse that Costello decision of 2006, but we do propose, if we are fortunate enough to win government, to ensure that earnings over \$75,000—and just the marginal amount over \$75,000—are subject to a 15 per cent tax rate.

We have also indicated that we will lower the threshold for the 15 per cent high-income superannuation charge from \$300,000 to \$250,000. Those two measures together save the budget in excess of \$14 billion over the decade. They are responsible, they are fair and they will put our superannuation system on a more sustainable footing for the future.

Labor are hardly the only ones who believe that our superannuation settings need to change. We can go through those who support some changes to our superannuation system and start with the Secretary to the Treasury, John Fraser. The government's own tax white paper asked the question, 'Are Australia's superannuation tax concessions sustainable?' A range of groups across the political spectrum have called for the government to engage in a sensible debate over superannuation tax concessions. They include the Association of Superannuation Funds of Australia, the Business Council of Australia, the Australian Council of Social Service, AustralianSuper, the Grattan Institute and Rice Warner actuaries. Indeed, the recent reform summit co-sponsored by *The Australian* newspaper and the *Financial Review* newspaper saw as part of its communique a recognition that we need to look carefully at our superannuation tax concessions. We need to make sure that they are fair for this generation and fair for generations to come such as the students now filing into the public gallery above us.

What does the government have to say about these unfair and unsustainable superannuation concession? It depends on who you ask in the government, as with many things. The member for North Sydney refuses to rule out changes, but the Prime Minister is slamming the door on him, saying that there will be no changes whatsoever. As usual, the member for Kooyong would like to have it both ways—

Mr Brough: Mr Deputy Speaker, I have a question to shadow minister. Would he mind sharing with the House what he deems to be fair in relation to this bill?

The DEPUTY SPEAKER (Hon. BC Scott): Order! You need to ask the member if he would accept a question.

Mr Brough: Mr Deputy Speaker, I seek to intervene. Would the member for Fraser be generous enough to accept a question on fairness and what he considers to be fairness?

The DEPUTY SPEAKER: Is the member for Fraser willing to give way?

Dr LEIGH: If the member follows proper procedure, I would be pleased to accept a question from him.

Mr Brough: On behalf of the opposition: would the shadow minister, the learned gentleman that he is, like to share with the parliament and the people of Australia what he thinks is acceptable, what he believes is fair and what he would do in government?

Dr LEIGH: I thank the member for Fisher for the question, and I assure the House that this is not a question I wrote earlier, although it is indeed an excellent one. Labor's policy on superannuation is one which has been announced on early in this term of government, in order to promote exactly the sort of healthy public debate that I know the member for Fisher believes in. We recognise that superannuation changes are not universally popular, and that is why we have begun the community conversation about Labor's changes. Yes, they raise \$14 billion over the next decade, but they do so by reversing a Peter Costello change—which I hope the member for Fisher no longer believes was a fiscally prudent one—and by changing the high-income superannuation charge.

But the real question here is where the government stands. It is unusual for a member of the opposition to be saying this, but I honestly do not know. The member for North Sydney does not want to rule out any changes, but the Prime Minister does want to rule out changes. The member for Kooyong wants to stay on the good side of both of them, so he will rule things out or in according to which day of the week it is and which radio interview he

is doing at the time. We know indeed that the government was considering making superannuation changes right up until the day Labor announced its policy package. Indeed, plausibly, some of the talented Treasury officials sitting in the boxes today were working on the memorandums that we know, thanks to freedom of information laws, were being sent up to the government during this period. We know that there were four briefs that went to the government in the lead-up to the 2015 budget, but they stop on a particular day. No prizes for guessing which day that is—that is the day that Labor made its superannuation announcement. How is that for a coincidence?

As always, we have the government playing politics over the policy. The Prime Minister rolled the Treasurer on the issue of superannuation tax concessions—admittedly, a feeling that the Treasurer must be getting used to by now—and doubled down against any change, saying, 'We aren't ever going to increase the taxes on super. We aren't ever going to increase the restrictions on super.' As with some of the Prime Minister's statements, that needs a little parsing. What he means when he says, 'We aren't ever going to increase the restrictions on super', is that the coalition will not tackle one of the fastest-growing areas of tax expenditure to get the budget under control. He means that the government will not act to make superannuation fairer and more sustainable. He means the government will continue a system where the vast majority of superannuation concessions go to the most well-off, and the lowest paid Australians get nothing.

Let us be clear. When we are talking about superannuation, as this bill does, we need to recognise the role of the super tax concessions. They do two things. They recognise the public benefit in reducing the number of people who claim the age pension, and they recognise the public benefit in having a larger national pool of savings. That second public benefit is tangible and was important in the global financial crisis but surely must be accorded less weight than the first. For people with multimillions in their superannuation accounts, I say, 'Good luck to you. Congratulations, but you should not necessarily be claiming the same superannuation tax concessions as you did in the past.'

Labor's policy is costed and sustainable and is something which I hope the government will engage on. I hope the government will go back to those excellent briefs, which I am sure were being prepared for them by the Department of the Treasury in the lead-up to Labor's announcement, and come to a bipartisan consensus with Labor on making sure that our super tax concessions can be sustainable in the future. We have no problem with the government's proposal to increase the threshold for collecting lost members' accounts, but we want to make sure that the government engages in the bigger conversation over super concessions. It is such an important conversation, particularly for those of us on this side of the House who were responsible for creating universal superannuation and who will continue to defend a strong and accessible superannuation system. I move the second reading amendment that has been circulated in my name:

That all the words after "That" be omitted with a view to substituting the following words:

"whilst not declining to give the bill a second reading, the House condemns the Government's failure to address unfair and unsustainable superannuation tax concessions."

The DEPUTY SPEAKER (Hon. BC Scott): Is the amendment seconded?

Ms Owens: I second the amendment.