

Department of Social Services – Questions on Notice from Public Hearing 28 August 2014

Question No. 1

Hansard Page: 5

Topic: Views on the tax treatment of income.

Terri Butler MP asked:

A lot of dads and second wives ask why the custodial parent is getting tax-free income. It seems to me there is a second issue which is that the tax rate, if it is based on the gross income of the payer, is the marginal tax rate of the payer, not the marginal tax rate of the payee. We are taxing [child support] as though it is income of the payer and therefore we are taking possibly a higher marginal rate of that amount of money than we would if it was taxed once it was in the payee's hands. Do you have any views on either of those two things?

Answer:

The Treasury has responsibility for taxation policy and any questions about the tax treatment of child support payments and income would be best directed to that department.

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Question No. 2

Hansard Page: 5-6

Topic: In-kind payments

Graham Perrett MP asked:

Is there capacity for people to contribute to their family through in-kind payments? I would be interested in how that could work.

Answer:

Where the Department of Human Services (DHS) is responsible for collecting child support payments on behalf of the payee, there is flexibility within the Child Support Scheme to recognise payments made in lieu of child support. These are called Non-Agency Payments (NAPs). A NAP can be a payment made directly to the payee, a payment to a third party, or a non-cash transaction such as the transfer of property or provision of goods or services.

The Registrar can credit a NAP towards a child support debt if the payer and payee both intended the amount paid to be in complete or partial satisfaction of a child support liability. The payer and payee can agree to credit the NAP at a rate of up to 100 per cent of the ongoing liability.

In cases where the payer has less than 14 per cent care of the children, certain payments can be credited towards a child support liability regardless of whether the parents intended the payment to be in lieu of child support. These are called ‘prescribed NAPs’ and include certain school and medical fees, child care costs, and payments towards the payee’s house and vehicle. Prescribed NAPs are credited at up to 30 per cent of the payer’s ongoing liability when the remaining 70 per cent of the liability is paid.

Where a case is ‘private collect’ (i.e. DHS is not involved in collecting or disbursing payments), it is up to the parents to make their own arrangements for payment. This may include accepting in-kind payments as child support.

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Question No: 3

Hansard Page: 6

Topic: Rationale for the different costs of children amounts in the formula

George Christensen MP asked:

A lot of people out there think that the cost of raising a child should be one figure. How is it then that as the income goes up you can have children whose costs are worth one thing, whereas for poorer people their costs are another thing?

Answer:

After considering a wide range of complex issues, the 2005 Ministerial Taskforce recommended the current child support formula, which increases child support levels as combined assessable income increases, while decreasing child support as a proportion of that increasing assessable income. The formula design achieves this through having the Costs of Children table apply different costs of children “percentages” to five ascending bands of adjusted taxable income (ATI). These percentages diminish in level as the bands of ATI ascend in level.

The Taskforce provided a number of explanations in its 2005 report ‘In the Best Interests of Children’ to support its recommended design, for example:

“...the research of the Taskforce, and the preponderance of international research published since 1988, shows that while the higher the household income, the more parents spend on their children in dollar figures, expenditure declines as a percentage of their income. The impact of marginal tax rates is one reason that spending on children does not increase in proportion to the increases in people’s taxable income. Furthermore, as income increases, expenditure becomes more discretionary. Parents who are already providing a comfortable standard of living for their children may choose to put more money into savings or to spend additional income in ways other than on their children.”
(p 6)

The Taskforce found that under the old formula, parents on higher incomes paid levels of child support that were well in excess of the cost of their children. One factor causing this was that the fixed percentage design of the old formula made payers liable to pay increased proportions of their after-tax income as child support if they increased their earnings.

From its analysis of the available research, the Taskforce concluded that the cost of raising a child should not be conceived to be either a single fixed percentage of income or one particular dollar figure. Rather, the Taskforce argued that:

“...how much a child costs beyond providing for his or her basic needs depends on the incomes of the parents and the living standard they want the child to have.” (p 112)

In light of this research, the Taskforce considered a range of contesting principles for calculating child support obligations and decided the “continuity of cost” principle was the

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most appropriate (p 110-114). This principle is based on the idea that fairness requires that formula payers should contribute the same amount towards their children after separation as they would if they were living with the other parent. The Taskforce noted that in calculating the level of that contribution, it was important to take account of the range of family benefits provided by the government.

Like other aspects of the formula's design, the figures in the Cost of Children tables are also shaped by Taskforce judgements about what compromises are appropriate between the competing design objectives of fairness, simplicity and cost-effectiveness to government.

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Question No: 4

Hansard Page: 9

Topic: Professor Parkinson's views on DPOs issued against overseas residents.

Terri Butler MP asked:

We had a concern raised by Professor Parkinson about people who are normally domiciled overseas having DPOs issued against them – they might be visiting Australia briefly and have a DPO raised against them. It might be useful if you take on notice and get us some sort of response to that.

Answer:

The Department acknowledges the concerns raised by Professor Parkinson in his submission to this Inquiry regarding departure prohibition orders (DPOs) issued against parents who do not live in Australia. Section 72D of the *Child Support (Registration and Collection) Act 1988* outlines the criteria under which the Registrar can make a DPO, and the matters to which the Registrar must have regard. The legislation does not prevent the Registrar from issuing a DPO against a person who does not live in Australia, provided the relevant criteria are met. Any changes to current policy or legislation are a matter for government.

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Question No: 5

Hansard Page: 9

Topic: DPO and visa interactions.

George Christensen MP asked:

Suppose there were a person who is not an Australian national, who came here on a specific tourist visa, for the purpose of seeing his children, and he had a debt and was flagged and had a DPO against him. Then as he prepared to leave he was told that he could not leave until the debt was paid, yet his visa a day from expiring. Do they just let him go? What happens?

Answer:

Section 72D of the *Child Support (Registration and Collection) Act 1988* outlines the criteria under which the Child Support Registrar can make a departure prohibition order (DPO), and the matters to which the Registrar must have regard. The legislation does not require the Registrar to revoke a DPO or take any specific action if the parent's visa is due to expire. However, the Registrar does have the discretion to revoke or vary a DPO if it is considered desirable to do so.

In cases where a DPO has been issued against a person whose visa is about to expire, it is the responsibility of the person to whom the visa was issued to notify the Department of Immigration and Border Protection of the DPO and make appropriate arrangements to ensure they are not breaching their visa conditions. This may include applying to extend their existing visa, applying for a new visa, and/or applying for a bridging visa.

Under subsection 72H(2) of the *Child Support (Registration and Collection) Act 1988*, a DPO ceases to be in force during any period when a deportation order is in force under the *Migration Act 1958*.

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Question No: 6

Hansard Page: 10

Topic: Number of payers with liability between \$0 and \$500 who receive income support

MP Sharman Stone asked:

Is [the huge proportion of payers who have a liability of \$0 to \$500] able to be matched with the fact that the person who is the parent but not the carer is on unemployment benefits? Does it match up with disability support pensions? Or any Commonwealth welfare measure.

Answer:

The following data is as at 31 August 2014.

Of the 271,775 cases with an annual liability between \$0 and \$500, 161,718 (or 59.5 per cent) involve payers who were in receipt of some form of income support payment. An income support payment includes:

Abstudy, Abstudy Schooling A, Age Pension, Austudy, Bereavement Allowance, Carer Payment, Disability Support Pension, Exceptional Circumstances Relief Payment, Farm Household Allowance, Mature Age Allowance, Newstart Allowance, Parenting Payment Single, Partner Allowance, Sickness Allowance, Special Benefit, Widow Allowance, Widow B Pension, Wife Pension Age, Wife Pension Disability and Youth Allowance.

For the remaining 110,057 payers in this group, who are not in receipt of income support payments, a number of factors may be contributing to result in a liability within this range, including having care for multiple children or having a new baby. New partner income would also affect access to income support for low income child support payers.

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Question No: 7

Hansard Page: 12 & written request

Topic: Information about the ‘Intensive Collection Services’ cohort in relation to estimating the cost of a guaranteed maintenance system.

George Christensen MP asked:

Do you have an estimate of the administrative and payment costs of [a guaranteed maintenance] system?

Written request from Secretariat:

On p. 12 of the transcript further guidance was sought to assist the preparation of information on a child support ‘guarantee’ system. Please provide the information in relation to the cohort of child support clients who are in the ‘Intensive Collection Services’ stream.

Answer:

As at 30 September 2014, there were 39,984 cases where the paying parent was being managed by the Intensive Collection Services (ICS) Branch within the Department of Human Services (DHS). This represents approximately \$500 million in child support debt. The total annual ongoing liability for cases currently being managed by the ICS Branch is \$144 million.

At 30 September 2014, there were 27,909 active cases (cases with an ongoing child support liability) managed in the ICS Branch. For these cases:

- The average annual liability was \$5,167.53.
- The average annual payee income was \$31,185.45 (compared with \$32,383.95 for payees in the wider child support population).
- 59 per cent of payees were in receipt of some form of income support (compared with 57 per cent of payees in the general child support population).
- In 81 per cent of cases, payees were in receipt of Family Tax Benefit (FTB) (compared with 82 per cent of cases in the general child support population).

The Department has not undertaken work to estimate the costs of a guaranteed maintenance system.

The cases handled by the ICS Branch represent only a subset of cases with child support debt.