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No. 129 2001–02

Taxation Laws Amendment (Baby Bonus) Bill
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I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

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No. 129 2001-02

Taxation Laws Amendment (Baby Bonus) Bill 2002

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2 May 2002

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Taxation Laws Amendment (Baby Bonus) Bill 2002

Date Introduced: 14 March 2002

House: House of Representatives

Portfolio: Treasury

Commencement: Royal Assent. However, the measures will apply in respect of eligible babies born on or after 1 July 2001.

Purpose

To provide a mechanism for a 'refund' of previously paid tax on the birth of an eligible child for a maximum of five years. The refund will be subject to minimum and maximum limits so that the 'refund' will also be available to those who paid no tax in the relevant year, generally the year before the birth of the child. Subject to the maximum limit, those eligible for the 'refund' on higher incomes will receive greater benefit than those on lower income, and the available 'refund' will be proportioned during the year of the eligible babies birth and, for later years, on the child supporter's income.

Background

Government assistance to families with children is principally provided through the Family Tax Benefit. The Family Tax Benefit Part A is payable at a base rate of \$1029 for children under 18 years and \$1383 for dependent children aged 18-24. These rates are payable where the combined income of the family is between \$29 857 and \$77 234 plus \$3139 for each additional child after the first. Higher rates are payable where income is below the lower figure and phases out at the rate of 30 cents in a dollar for each dollar by which income exceeds the upper amount. The Family Tax Benefit Part B is payable where the income of the secondary income earner is below \$10 853 per year if the youngest child is under 5 and \$8079 if the youngest child is aged between 5 and 18 years. Thus while the Part A payment is fully income tested, the principal income earner's income is ignored for the Part B payment.

There are also a number of other assistance packages available for families, including a maternity allowance, large family supplement and a multiple birth allowance. The

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maternity allowance is payable where the recipient is eligible for Family Tax Benefit Part A within 13 weeks of the baby's birth and consists of a one off payment of \$789.36.

The 'baby bonus' (or First Child Tax Refund) was announced by the Prime Minister at the launch of the coalition election campaign for the 2001 election. The bonus will consist of a repayment of the amount of tax paid in the previous year averaged over 5 years, so that 1/5th of the tax paid is refunded each year. The maximum rate of refund will be \$2500 per year, which equates to an income of \$52 666 (only income from personal exertion is taken into account) while the minimum rate will be \$500 per year, which will apply to incomes up to approximately \$20 000 per year. Where the parent returns to the workforce within 5 years of the child's birth, their entitlement will be reduced in proportion of their income compared to that in the year on which the refund is based. The refund is available in respect of a first child born on or after 1 July 2001, or for people who already have a child or children, for the first child born after that date.¹

Two notable features of the arrangement are that it is payable regardless of the combined income of the family and that higher amounts are received for higher income earners. An analysis of the measure found that approximately a third of the female workforce earned \$20 000 per year or less, and so will only be eligible for the minimum payment of \$500 per year, while approximately 50 per cent of the female workforce earned \$26 000 or less, at which rate of earnings they would be eligible for a maximum of \$800 per year. It was also found that only approximately 5 per cent of the female workforce would be eligible for the maximum rate of \$2500 per year.²

While estimating the cost of bringing up a new born baby is difficult, the Department of Family and Community Services estimated that the cost of raising a girl aged 3 where the man is employed full-time and the woman is not in the labour force with a modest but adequate budget standard was an average of \$101 per week in December 1998.³ While the baby bonus will, depending on the level at which it is paid, make a contribution towards the payment of this extra cost it remains unclear as to what effect it will have on a decision to return to work. Such a decision can be affected by a large range of matters, such as the availability of child care, partner's income (if relevant), career aspirations, etc. It has recently been reported that a woman earning \$30 000 per year for five years would receive a total after tax income of \$123 100, compared to the refund of \$5380 under the baby bonus scheme.⁴

The Treasurer has estimated that approximately 245 000 mothers will be eligible for the bonus in its first year, increasing to 900 000 by the fifth year and then falling to approximately 600 000 for later years.⁵ The peak in the fifth year reflects the transitional arrangements which allow claims in respect of a child other than the first child as referred to above. According to the explanatory memorandum to the Bill the measure will cost \$85 million in 2002-03, \$250 million in 2003-04, \$390 million in 2004-05 and \$510 million in 2005-06. This equates to an average benefit of \$347 in the first year and \$567 in the fifth year. The reason for the amount payable in the first year being less than the minimum of \$500 is that the bonus is proportional on the period of the year after which the baby was

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born, so that, for example, if the baby was born in early January only approximately 50 per cent of the bonus would be payable for that year.⁶ This was not made clear in the initial announcements.

Main Provisions

Item 2 of Schedule 1 will insert a new subdivision 61-I into the *Income Tax Assessment Act 1997* (ITAA97) dealing with the first child tax offset. Entitlement to the tax offset is dealt with in **proposed section 61-355** which provides that a person will be entitled to the offset if:

- the person had a child event in relation to a child (under **proposed section 61-360** a person will have a child event if they become legally responsible for the child on or after 1 July 2001, are an Australian resident at the time, were not legally responsible for the child before this date and there is no other person legally responsible for the child who also had responsibility before this date)
- the person did not have a child event in respect of another child and at that time also satisfied the following conditions:
 - the child is less than 5
 - the person is legally responsible for the child and has care of the child
 - the person is an Australian resident
 - the rules relating to another carer do not prevent the person from having a primary entitlement to the tax offset, and
 - if the selection rules apply, the person is selected under those rules.

The rules relating to another carer are contained in **proposed section 61-370** which provides that a person cannot have a primary entitlement to the tax offset if another person is legally responsible for the child and has care of the child and that person had, at any time, an entitlement in respect of another child.

The selection rules are contained in **proposed section 61-375**. The rules apply if more than one person satisfies the conditions referred to above and provide that the offset will be available in the following order of priority:

- the natural mother
- the adoptive mother
- if only one of the people who satisfy the conditions is a woman, that woman

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- the natural father
- the adoptive father, or
- the person determined by the Commissioner.

If the child dies before 5 years of age, **proposed section 61-380** provides that the entitlement to the tax offset will continue until the end of the year in which the death occurred and that the person will remain eligible to receive the offset in respect of a later baby.

A person eligible to receive the offset will be able to transfer the payment to certain people. Such a transfer will only be able to be made to:

- a person who was the eligible person's spouse at all times that the person was entitled to the offset (spouse is defined in the ITAA97 to be a person who lives with another person on a genuine domestic basis as the person's husband or wife – thus excluding same sex couples)
- the person to whom eligibility is to be transferred was not entitled to the offset in respect of that, or another, child during the year, and
- the tax offset has not been claimed but has been transferred after the end of the year. (**proposed section 61-385**).

Such a transfer cannot be changed or revoked (**proposed section 61-390**).

The amount of the tax offset is calculated according to **proposed sections 61-415 to 61-430**. Under proposed section 61-415 the rate of payment will depend on the person's entitlement amount and their entitlement days.

The entitlement amount will be calculated by multiplying the base amount by the proportion of which the income in the year relates to the income in the base year (basically this formula will adjust the amount of the offset for any income earned during the year for which the offset is claimed). The base amount will be lesser of 1/5th of the person's income in their base year and \$2500 (thereby ensuring a minimum annual payment of \$500) (**proposed section 61-420**).

The definition of entitlement days, together with the formula contained in proposed section 61-415, effectively proportions the amount of the available offset in the year of the baby's birth to the proportion of the year after the person become eligible to claim for the tax offset (**proposed subsection 61-425**).

The definition of 'base year' is dealt with in **proposed section 61-430**. It will be either the income year before the child event occurred or, if the person elects, the year during which the event occurs.

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Concluding Comments

As a program to assist the most deserving people to cope with the extra expense associated with the birth of a first child the measures contained in this Bill must be subject to some doubt. The greater rate of tax offset available to higher income earners and the lack of a parental income test (ie the inclusion of any partner income, if relevant) may result in the offset principally being available to higher income families where the family can afford to have a potential income earner out of the workforce for a period.

The restriction of the amount of the offset to the proportion of the year after the child event occurred seems at odds with the suggestion that the offset is designed to compensate for the initial costs of the birth of the first child.⁷

Endnotes

- 1 *Stronger Families and Communities*, p. 5.
- 2 *The Sydney Morning Herald*, 30 October 2001.
- 3 Department of Family and Community Services, Policy Research paper Number 7, January 2001, p. 67.
- 4 *The Canberra Times*, 4 November 2001.
- 5 *Treasurer*, Press Release, 28 October 2001.
- 6 Proposed section 61–425 of the Bill.
- 7 The Stronger Families and Communities document states ‘If re-elected the Coalition will provide additional assistance [to] families during one of the hardest times for them financially, the birth of a child’. p. 5.

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