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No. 38 2003–04

## Family Assistance Legislation Amendment (Extension of Time Limits) Bill 2003

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No. 38 2003–04

Family Assistance Legislation Amendment (Extension of  
Time Limits) Bill 2003

Peter Yeend  
Social Policy Group  
10 October 2003

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# Family Assistance Legislation Amendment (Extension of Time Limits) Bill 2003

**Date Introduced:** 10 September 2003

**House:** House of Representatives

**Portfolio:** Family and Community Services

**Commencement:** Royal Assent

## Purpose

To amend the *A New Tax System Family Assistance (Administration) Act 1999* (FAAA) to allow a further twelve months for claimants of Family Tax Benefit (FTB) or Child Care Benefit (CCB) to lodge a tax return and still be eligible to receive FTB or CCB entitlements.

## Background

The FTB and CCB payment arrangements were introduced from 1 July 2000 as a part of the A New Tax System (ANTS) family assistance changes. Bills Digest No 175 1998-99 refers.<sup>1</sup>

### Payment of FTB or CCB can be made in two ways

Under the ANTS family assistance arrangements a claim for FTB or CCB can be lodged in either of two ways:

1. before the end of the financial year - to be paid fortnightly based on an income estimate; and/or
2. at the end of the financial year with the lodgement of a tax return.

For payment method 1, up to 26 fortnightly instalments can be made based on an estimate of income for the financial year.

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For payment method 2, a single lump sum arrears payment is made for any FTB or CCB entitlement for the whole financial year.

Whatever method of payment is selected by the claimant, the same amount of FTB or CCB is paid for the whole year against their assessed level of taxable income. Note: The FTB/CCB income test uses adjusted taxable income, being net taxable income but with foreign income, employer provided fringe benefits and negatively geared rental property losses added back in.

### FTB and/or CCB claim assessment

Once the tax return is lodged and the tax assessment made, the level of adjusted taxable income for the financial year can then be determined and an assessment of FTB and/or CCB entitlement for the year can then be made.

### Arrears of FTB and/or CCB can be paid or a debt raised

Where payment method 1 was used, ie. fortnightly instalments during the year against an income estimate, a reconciliation is then conducted for the year. Any underpayment is paid as arrears or any overpayment recovered as a debt.

### Tax return must be lodged within 12 months of the end of the year for which FTB or CCB is claimed

Subsection 10(2) of the FAAA requires that a claim for FTB must be lodged within 12 months of the end of the year in respect of the year the FTB is claimed.<sup>2</sup> For example, for a claim for FTB for the 2002-03 financial year a tax return must be lodged by 30 June 2004. A like provision for claims for CCB applies - sub-section 49J(2) of the FAAA refers.<sup>3</sup>

### How many FTB claims are lodged in the tax return at the end of the year rather than claiming periodic payments during the year?

In an answer to a question on notice to the Senate Community Affairs Legislation Committee provided in August 2002, the Department of Family and Community Services reported some 77 688 customers had been paid FTB as a lump sum payment through the tax system for the 2000-01 year.<sup>4</sup>

### How many claims for FTB are lodged outside the 12 month period?

In an answer to a question on notice to the Senate Community Affairs Legislation Committee provided in February 2003, the Department of Family and Community

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Services reported some 25 072 FTB customers were not paid \$37.03 million of FTB for the 2000-01 year, as the tax return was lodged more than 12 months after the end of 30 June 2001.<sup>5</sup>

### Why are tax returns late lodged?

Contact was made with the Australian Tax Office and a random sample of tax agents to ascertain if there was a common group, type or reason as to why individuals delay more than 12 months after the end of the tax years to lodge a tax return. No one contacted provided singular or typical reason. Anecdotal evidence provided suggests that it is more likely to be individual tax payers preparing their own tax returns, rather than persons involved in business or company arrangements and/or using a tax agent, who are more likely to lodge a late tax return.

## Main Provisions

### Schedule 1 – extension of time limits relating to FTB and CCB

**Item 1** proposes to amend the FAAA to extend the time period in which a claim for FTB may be lodged for a past period from 12 to 24 months.

**Item 3** proposes to amend sub-paragraph 49(J)(2)(b) of the FAAA to extend the time period in which a claim for CCB may be lodged for a past period from 12 to 24 months.

**Items 6(1)** proposes to amend the FAAA to ensure the extension of the current 12 month time limit to a 24 month time limit only refers to the 2001-02 year and subsequent years for FTB claims.

**Items 6(3)** proposes to amend the FAAA to ensure the extension of the current 12 month time limit to a 24 month time limit only refers to the 2001-02 year and subsequent years for CCB claims.

**Part 2 of Schedule 1** is a change arising from the extension of time to lodge a FTB or CCB claim from 12 to 24 months. **Part 2** proposes to amend the *Income Tax Assessment Act 1997*, 7 to allow a person who uses the services of a tax agent to make a claim for FTB or CCB for a past period, to claim the tax agent's fee as a tax deduction.

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## Concluding Comments

This is beneficial legislation. There are a significant number of individual tax lodgers who do delay more than 12 months after the end of the tax year to lodge a tax return and who also would otherwise qualify for arrears of FTB and/or CCB.

## Endnotes

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- 1 Bills Digest No. 175 1998-99 - A New Tax System (Family Assistance) Bill 1999.  
<http://www.aph.gov.au/library/pubs/bd/1998-99/99bd175.htm>
- 2 *Claim must relate to one income year and not be made after the end of the next income year.*  
**10.(2)** A claim for payment of family tax benefit for a past period is not effective if:
  - (a) the period does not fall wholly within one income year; or
  - (b) the period does fall wholly within one income year but the claim is made after the end of the next income year
- 3 49J.(2) A past period claim is ineffective if:
  - (a) the period does not fall wholly within one income year; or
  - (b) the period does fall wholly within one income year but the claim is made before the end of that income year or after the end of the following income year.
- 4 Senate Community Affairs Legislation Committee  
ANSWERS TO ESTIMATES QUESTIONS ON NOTICE  
FAMILY AND COMMUNITY SERVICES PORTFOLIO  
2002-2003 Budget Estimates, 3 June 2002  
Output Group: 1.1 Family Assistance Question No: 42  
Topic: Family Tax Benefit  
Hansard Page: Written question on notice  
Senator Mark Bishop asked:
  - a) How many families in total claimed Family Tax Benefit in respect to 2000 - 2001;
  - b) How many families claimed their payments fortnightly;
  - c) How many families chose to claim their payments through the tax system as (a) a lump sum; and (b) tax instalment reductions;

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- d) What was the total dollar value of the Family Tax Benefit payments claimed through the respective payment methods?

Answer:

- a) Centrelink records show that 1,937,047 customers successfully claimed Part A and 1,358,413 customers successfully claimed Family Tax Benefit Part B as fortnightly payments. It is estimated that a further 80,688 customers have successfully claimed Family Tax Benefit through the tax system in respect of 2000-01.
- b) As noted above, Centrelink records show that 1,937,047 customers received Family Tax Benefit Part A and 1,358,413 customers received Family Tax Benefit Part B as fortnightly payments.
- c) Australian Taxation Office records show that 77,688 customers have so far been paid lump sum claims for Family Tax Benefit through the tax system and it is estimated that around 3,000 customers received Family Tax Benefit as reduced tax withholdings.
- d) During 2000-01, \$10.1 billion in fortnightly FTB payments was paid by Centrelink. During 2001-02, a further \$0.2 billion has been paid out by Centrelink in respect of 2000-01 entitlements. The Australian Taxation Office has paid out a further \$0.3 billion in respect of 2000-2001.

5 Senate Community Affairs Legislation Committee

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

FAMILY AND COMMUNITY SERVICES PORTFOLIO

2002-2003 Supplementary Budget Estimates, 21 November 2002

Output Group: 1.1 Family Assistance Question No: 40

Topic: FTB-CCB entitlement where 2001 tax return lodged after 30 June 2002

Hansard Page: CA17

Senator Bishop asked:

What is the amount of FTB-CCB that families would have been entitled to either as a:

- a) top-up payment; or  
b) complete payment)

had they lodged before the June 30 deadline?

Answer:

- a) As at 29 November 2002, 25,072 Family Tax Benefit (FTB) customers who lodged 2001 tax returns after 30 June 2002, and/or whose partners lodged 2001 tax returns after 30 June 2002, would have received \$37,033,027 (an average of \$1477) in top-ups of their 2000-01 FTB entitlements had those returns been lodged before 1 July 2002. All of these customers were sent letters by the Family Assistance Office in April 2002 and reminder letters in June 2002 telling them that they would not receive top-ups if they lodged their 2001 tax returns after 30 June 2002. b) With regard to FTB and Child Care

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Benefit claims for 2000-01 that were lodged too late to be effective claims, the amount that would have been paid had those claims been lodged on time is not known as those claims have not been assessed for payment. The deadline for lodgement of FTB and CCB claims for 2000-01 was stated in the 2001 FTB Tax Claim and the CCB lump sum claim form, respectively. The lodgement deadline was also advised to childcare centres in May 2002 and to tax practitioners at various times in 2001 and 2002.

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