



Tax Laws Amendment (Education Refund) Bill 2008

Marilyn Harrington
Social Policy Section

Contents

Purpose	2
Background	3
Coalition election commitment	4
Financial implications	4
Key issues	4
Main provisions	6
Concluding comments	7

Tax Laws Amendment (Education Refund) Bill 2008

Date introduced: 25 September 2008

House: House of Representatives

Portfolio: Treasury

Commencement: Royal Assent

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The Tax Laws Amendment (Education Refund) Bill 2008 (the Bill) amends the *Income Tax Assessment Act 1997* to introduce the Education Tax Refund (ETR). The ETR will provide a 50 per cent refundable tax offset for eligible education expenses up to a maximum of \$750 for children undertaking primary education studies and \$1500 for children undertaking secondary education studies. As the Treasurer explains:

Under the plan eligible families will be able to claim 50 per cent of eligible education expenses up to \$750 for each child undertaking primary school, to provide a maximum tax offset of \$375 per child, per year.

For children undertaking secondary school studies families will be able to claim 50 per cent of their eligible expenses up to \$1,500 per child, to give a maximum tax offset of \$750 per child, per year.¹

The Bill also makes consequential amendments to the *Taxation Administration Act 1953*, *A New Tax System (Family Assistance) (Administration) Act 1999*, the *Social Security (Administration) Act 1999* and the *Student Assistance Act 1973*.

-
1. Wayne Swan, 'Second reading speech: Tax Laws Amendment (Education Refund) Bill 2008', House of Representatives, *Debates*, 25 September 2008, [http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=:db=CHAMBER;group=:holdingType=:id=chamber%2Fhansardr%2F2008-09-25%2F0005;orderBy= fragment_number;page=:query=\(Dataset%3Ahansardr\)%20Date%3A25%2F09%2F2008;querytype=:rec=0;resCount=](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=:db=CHAMBER;group=:holdingType=:id=chamber%2Fhansardr%2F2008-09-25%2F0005;orderBy= fragment_number;page=:query=(Dataset%3Ahansardr)%20Date%3A25%2F09%2F2008;querytype=:rec=0;resCount=), accessed on 10 October 2008.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Background

The ETR is a 2008–09 budget measure, which had its basis in a 2007 ALP election policy commitment.² It is a refundable tax offset and, therefore, will apply to eligible applicants regardless of their tax liability. That is, it will also be paid if the person has no tax liability.

Taxpayers who are entitled to the ETR include those in receipt of Family Tax Benefit (FTB) Part A payment for a child; taxpayers and/or their child who receive other payments that preclude them from receiving FTB Part A³; or taxpayers who are independent students and receive payments such as Youth Allowance, Disability Support Pension or ABSTUDY Living Allowance.

The ETR will apply to eligible expenses incurred from 1 July 2008 and will be claimable when income tax returns are submitted. Therefore, the ETR will be claimable from 1 July 2009.

Eligible expenses for the ETR include the purchase, lease or hire-purchase of:

- computers and computer-related equipment, such as printers and disability aids, and associated costs
- a home Internet connection
- computer software
- school textbooks and other paper-based school learning material, including stationery and
- course-prescribed tools of trade.

Other provisions in the Bill include:

- for a student who if a child transitions from primary to secondary education during a financial year, the ETR will apply at the secondary rate for the entire year and

-
2. See J. Gillard (Minister for Education) and W. Swan (Treasurer), *\$4.4 billion to help families meet schooling costs*, media release, 13 May 2008, [http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:"media/pressrel/34GQ6"](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:), accessed on 3 October 2008; K. Rudd (Leader of the Opposition), W. Swan (Shadow Treasurer) and S. Smith (Shadow Minister for Education), *A tax plan for Australia's future – Labor's \$2.3 billion Education Tax Refund*, media release, ALP, Canberra, 18 October 2007, <http://www.alp.org.au/media/1007/msedutlootre180.php>, accessed on 3 October 2008.
 3. These payments include ABSTUDY, Student Financial Supplement Scheme, Veterans' Children Education Scheme; and various income support pension and benefit payments, such as the Disability Support Pension, Newstart Allowance and Youth Allowance.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

- education expenses in excess of the taxpayer's offset limit for a financial year can be transferred to the subsequent income year.

Coalition election commitment

The Coalition also gave an election policy commitment to provide a tax rebate for education expenses—a rebate of 40 per cent for education expenses up to \$800 annually for each secondary school student and up to \$400 for primary and preschool.⁴ However, there were some significant differences in its proposal, notably that it was universal (not means-tested); included preschool education expenses; and applied to school fees and levies, school uniforms, extra-curricula school activities and tutoring.

Financial implications

The ETR is estimated to cost \$4.4 billion over four years as follows:

- 2008–09 \$1015 million
- 2009–10 \$1095 million
- 2010–11 \$1135 million and
- 2011–12 \$1165 million.⁵

The final expenditure will depend on the number and amount of ETR claims.

Key issues

The ETR comes in the wake of reports over several years that have highlighted the difficulties of schooling costs for low-income families. For example, the Brotherhood of St Laurence's 2007 Education Costs Survey found 72 per cent of respondents could not afford items for that would 'improve the education experience of their children' and two-thirds did not have a home computer with Internet access. About 60 per cent had difficulty paying for books and almost half reported difficulty paying for equipment.⁶

-
4. *The Coalition Government Election 2007 Policy: Helping Families to provide More Education Opportunities for their Children*, 2007, [http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:"library/partypol/XKWO6"](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:), accessed on 3 October 2008.
 5. Explanatory Memorandum, Tax Laws Amendment (Education Refund) Bill 2008, p. 3, [http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:"legislation/billhome/r3074"](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:), accessed on 6 October 2008.
 6. S. Bond and M. Horn, *Counting the Cost: Parental Experiences of Education Expenses: Results from the 2007 Education Costs Survey*, Brotherhood of St Laurence, Fitzroy, Vic.,

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Therefore, the ETR will be welcomed by low-income families. However, the differences between the proposed ETR and the Coalition's election policy commitment, and other findings of the St Brotherhood of St Laurence and similar surveys, draw attention to what is excluded from the ETR.

Eligible expenses for the ETR focus in the main on information communications and technology (ICT) and as such complement the Government's *Digital Education Revolution*, which is providing \$1.2 billion over five years for ICT in schools.⁷

The exclusion of school-based extra-curricula activities is in spite of a number of reports that have highlighted the burden of this aspect of schooling for low-income families. The Brotherhood of St Laurence survey found that 69 per cent of parents reported difficulty paying for sport or recreation, 62 per cent for camps and 47 per cent for excursions. Thirty-nine percent of respondents reported that their children had been absent from school because of their inability to pay for the extra costs of excursions, sport days, school camps, uniforms and equipment, lack of transport and food insecurity.⁸ The Smith Family also identified and responded to this problem by establishing its Learning for Life scholarships to assist families to pay for school uniforms, text books and excursions.⁹

Education expenses in relation to preschool education are not eligible for the ETR. Given the Government's emphasis on early childhood education, some may question this omission.¹⁰ Further, the national preschool education inquiry, conducted for the Australian Education Union in 2004, identified the costs of preschool education as an impediment to preschool participation.¹¹

The ETR applies to primary and secondary education broadly, which means that for the first time the Commonwealth is providing some support for children who are educated at home. Currently neither the Australian or state and territory governments provide substantive funding for children who are home educated, although all states and territories

2008, http://www.bsl.org.au/pdfs/Bond&Horn_Counting_the_cost_2007_educln_survey.pdf, accessed on 6 October 2008.

7. For further information, see the *Digital Education Revolution* web site at <http://www.digitaleducationrevolution.gov.au>, accessed on 3 October 2008.
8. *ibid.*, p. iii.
9. For further information, see the Learning for Life web site at <http://www.thesmithfamily.com.au/site/page.cfm?u=9>, accessed on 7 October 2008.
10. For information about the Government's early childhood education policies, see the Office of Early Childhood Education and Childcare's *Universal Access to Early Childhood Education* web site, <http://www.oceccc.gov.au/education>, accessed on 3 October 2008.
11. K. Walker, *National Preschool Education Inquiry: For all Our Children: Report of the Independent Inquiry into the Provision of Universal Access to High Quality Preschool Education*, Australian Education Union, Southbank, Vic., 2004, p. 16, <http://www.aeufederal.org.au/Ec/ecfullreport.pdf>, accessed on 7 October 2008.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

do provide some form of material assistance, including, in some cases, access to general student allowances. The ETR will at least bring the Commonwealth into line with other jurisdictions which provide this level of support.

There may also be some question about the timing and delivery of the ETR. The requirement to pay the expense upfront without immediate reimbursement may be problematic for some disadvantaged families. In the case of excess education expenses which are deferred for ETR claiming until the following year, the time lag is even longer. In this respect, a parallel can be drawn with the Government's decision to pay the Child Care Tax Rebate quarterly rather than annually.¹²

Main provisions

Item 3 of Schedule 1 inserts a new subdivision 61-M into the *Income Tax Assessment ACT 1997* to provide for the Education Tax Refund (ETR):

- **proposed sections 61-610 and 61-620** set out the entitlement and eligibility criteria for the ETR
- **proposed section 61-630** defines the levels of education to which the ETR applies. **Subsections 61-630(2)(b) and 61-630(4)(b)** specifically include primary and secondary students who are home schooled
- **proposed section 61-640** defines the expenses which are eligible to be claimed under the ETR
- **proposed sections 61-650, 61-660 and 61-670** set out the amount of the ETR and provide the formulae for calculating the ETR amount and
- **proposed section 61-680** provides the arrangements for calculating excess education expenses and makes provision for the excess to be claimed in the following year.

Items 1, 6 and 7 of Schedule 1 make amendments to *A New Tax System (Family Assistance) (Administration) Act 1999*, the *Social Security (Administration) Act 1999*, the *Social Security (Administration) Act 1999* and the *Student Assistance Act 1973*, allowing disclosure of information relating to the offset to the Commissioner of Taxation.

Item 8 of Schedule 1 makes consequential amendments to the *Taxation Administration Act 1953*.

12. For further information, see Dale Daniels, 'Family Assistance Legislation Amendment (Child Care Budget and Other Measures) Bill 2008', *Bills Digest*, no. 139, Parliamentary Library, Canberra, 2007–08, pp. 4–5, <http://www.aph.gov.au/library/pubs/bd/2007-08/08bd139.pdf>, accessed on 7 October 2008.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Concluding comments

While the ETR should be welcomed, the debate may well centre on what is not a claimable expense, such as expenses related to extra-curricula activities, school uniforms and school fees. There may also be a question about the ETR amount and the additional capacity it will provide to disadvantaged families to purchase costly items such as ICT. This capacity may also be compromised by the delay in claiming the ETR.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

© Copyright Commonwealth of Australia

This work is copyright. Except to the extent of uses permitted by the *Copyright Act 1968*, no person may reproduce or transmit any part of this work by any process without the prior written consent of the Parliamentary Librarian. This requirement does not apply to members of the Parliament of Australia acting in the course of their official duties.

This work has been prepared to support the work of the Australian Parliament using information available at the time of production. The views expressed do not reflect an official position of the Parliamentary Library, nor do they constitute professional legal opinion.

Feedback is welcome and may be provided to: web.library@aph.gov.au. Any concerns or complaints should be directed to the Parliamentary Librarian. Parliamentary Library staff are available to discuss the contents of publications with Senators and Members and their staff. To access this service, clients may contact the author or the Library's Central Entry Point for referral.

Members, Senators and Parliamentary staff can obtain further information from the Parliamentary Library on (02) 6277 2414.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.