Equality Rights Alliance

Discussion Paper for the Tax Forum, October 2011

Written by Helen Hodgson, UNSW

There are a number of policy reasons to encourage workforce participation by women. The key reasons can be identified as:

1. Children in workless households are at greater risk of poverty[1];
2. Underemployment affects the ability of women to save for their retirement[2]; and
3. Lower participation rates for women than men constitute a significant source of labour to maintain productivity in the Australian economy[3] .

In recent consultations with women throughout Australia, women identified a range of issues as relevant in determining the extent to which they are able to engage in the work force. The key issues identified are:

- widespread under-employment, despite the wish to further engage in work
- surprisingly common reports of experience of sex, age and pregnancy discrimination in workplaces
- fear of financial insecurity in later life especially in the event of marriage breakdown
- lack of understanding of and dissatisfaction with superannuation
- lack of understanding of detailed tax and transfer interactions
- inability to easily access clear information on entitlements to child care benefits, together with worries about child care access and about appropriate quality standards in child care services
- minimal knowledge or information about the range of adult re-training programs available through Commonwealth and State funded systems.

The final report of the Review of Australia's Future Tax System (Henry Review) made recommendations in respect of superannuation, child care, the tax transfer system and housing, and accordingly we bring these issues to the tax forum.

Superannuation:

The link between work and superannuation raises particular issue for women as a consequence of their disrupted work patterns. Younger workers, irrespective of gender, may not take a long term view in relation to retirement, while women returning to the

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[1]OECD. (2008) Growing Unequal? Income Distribution and Poverty in OECD Countries. Paris: OECD.

[2] Gilfillan G & Andrews L. (2010) Labour Force Participation of Women Over 45. *Productivity Commission Staff Working Paper*. Canberra: Productivity Commission, Kelly S. (2009) Don't Stop Thinking About Tomorrow. *AMP Natsem Income and Wealth Reports*. Sydney: NATSEM.

[3]Commonwealth of Australia. (2010) Intergenerational Report 2010. In: Treasury (ed) *Australia to 2050: Future Challenges*. Canberra.
Toohey T, Colosimo D & Boak A. (2009) Australia's Hidden Resource: The Economic Case For Increasing Female Participation. Economic Report. Goldman Sachs JBWere Investment Research.

workforce after a period of absence may not have the capacity to make additional contributions.

In the consultation process there was a general acknowledgement that women needed to be more engaged with the workforce and superannuation, as the ramifications were long lasting and led to poverty in later life. There was a view that the whole issue of superannuation had become very complex and there was a need for clear and precise information.

> ***Recommendation:*** *We endorse the proposals of the Cooper Review to simplify access to and lower the cost of the superannuation system, including the proposals to simplify amalgamation of accounts through using the Tax File Number system.*
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> In many two income households decisions about income and savings are gender based. Within the household some of the issues that impact on security for women in retirement are:

- The division of hours in the paid workforce: do both parents work full time, or does one or both parent(s) work part time?
- Who pays the household expenses, including child care costs?
- Does either parent have access to salary sacrificing arrangements, particularly in relation to superannuation?
- On divorce, women frequently accept other assets instead of splitting their spouse's superannuation[4]

The usual pattern of work in Australian households is the 1.5 worker model: one parent works full time while the other, usually the mother, works part time. The obvious outcome of this model is that the higher earner accumulates more superannuation through the superannuation guarantee charge. The higher earner also has more capacity to save through voluntary superannuation contributions. There is also evidence that mothers are more likely to pay household and child related expenditure, while the father's income is applied to discretionary expenditure and savings (including superannuation). Comments from women in the consultation confirmed these patterns.

> ***Recommendation:*** *We endorse Recommendation 18 of the Henry Review, recommending that superannuation be taxed at a taxpayer's marginal rate of tax less a rebate, as we believe that this will encourage couples to invest separately in the superannuation account of the lower income earner.*

The purpose of superannuation is to provide security in retirement, reducing the number of retirees relying on the age pension. There is a "lump sum" culture among Australian retirees, under which taxpayers prefer to take accumulated superannuation benefits in preference to income streams. This is not discouraged under the current taxation requirements, which ensure that both lump sums and annuities are tax free if the retiree is over 60 years of age. While a lump sum may allow a retiree to pay out liabilities, including a mortgage, an income stream provides a more effective ongoing safeguard against poverty. Currently the private annuity market in Australia is very thin, with few products available.

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[4] Sheehan G, Chrzanowski A & Dewar J. (2008) Superannuation and Divorce in Australia: An evaluation of post-reform practice and settlement outcomes. *International Journal of Law, Policy and the Family* 22: 206-230.

__Recommendation:__ We endorse Recommendations 21 and 22 to encourage superannuation funds to offer, and members to take up, annuities instead of lump sums on retirement.

An issue that was raised in the consultation was superannuation guarantee requirements in relation to low paid and casual workers. The Superannuation Guarantee Act excludes a person earning less than $450 per month from coverage. We have been informed that some employers who maintain large casualised workforces may be exploiting this provision in their rostering arrangements. For example women have talked of being employed by several different employers in the same industry, with each employer limiting the hours so that the worker remains under the monthly threshold. We believe that this affects other groups of workers, including students. The outcome of this employment practice is that these workers are not accumulating superannuation benefits. However we acknowledge that this cost of superannuation for these workers must be paid either by the worker, through adjustments to their wages – and these workers are often among the lowest paid workers, or by the employer effectively constituting a pay rise for these workers. Accordingly any adjustments must be managed in a way that does cause undue hardship to either the workers or those employers who are not systematically exploiting this provision.

__Recommendation__: that the threshold below which employers are not required to make contributions, currently $450, be removed. However this must be managed in a way that does not reduce the wages of these low paid workers but is affordable by employers.

The introduction of paid parental leave from 2011 has focussed attention on superannuation where a person takes time out of the workforce. Typically a parent will withdraw from the workforce for a period after the birth of a child, and possibly for the next few years. Re-entry to the workforce is frequently on a part time basis. We note that other carers face similar issues as they reduce or cease work in order to care for a family member.

The interrupted work pattern of women contributes to lower accumulations of superannuation: the superannuation guarantee contributions are lower as lifetime wages are lower, and voluntary contributions are lower due to a reduced capacity to save. Although many carers returning to work have a reduced capacity to save as a result of child care and other costs, providing an incentive for voluntary superannuation savings would increase the attractiveness of this as a savings vehicle.

__Recommendation:__ That superannuation guarantee be payable in respect of paid parental leave; that parents returning to the workforce after parental leave be encouraged to make catch up contributions into superannuation, through an increased superannuation co-contribution and/or an increased concessional contributions cap; and that consideration be given to similar treatment in respect of other categories of carer payments.

Currently a tax offset is available where a taxpayer makes a contribution in respect of a non-working spouse[5] . This rebate is very limited: the spouse must earn less than $13,800 pa, and the contribution is limited to $3,000, giving a maximum rebate of $540. In the 2008/09 year 16,455 claims were made, at a total cost of $6,478,698, or an average of $394[6] . This

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[5] ITAA 97 s.290-230

[6] ATO. (2011) Taxation statistics 2008-09 Canberra: Australian Taxation Office.

equates to about $2,189 as the average contribution made to spouse superannuation accounts. This offset is clearly only having a limited effect in encouraging contributions by a taxpayer on behalf of a non-working spouse.

> ***Recommendation:*** *The spouse superannuation offset should be reviewed with a view to increasing its effectiveness in encouraging contributions for a spouse.*

Child Care

The issues raised by women in the consultation in relation to child care were primarily:

- access to appropriate care;
- variable quality of child care services;
- understanding entitlements; and
- cost and tax deductibility of services.

The issues of access to appropriate child care have been raised many times:

1. The Taskforce on Care Costs (TOCC)[7] ;
2. House of Representatives Standing Committee on Family and Human Services[8].
3. Human Rights and Equal Opportunity Commission[9].
4. The National Foundation for Australian Women[10]

Each of these reports contains the stories of women who are balancing work and care requirements, and the difficulties that they experience in obtaining appropriate care for their dependants.

The lack of understanding that many women have in relation to their entitlement is not surprising. The calculation of Child Care Benefit (CCB) entitlement is extremely complex, requiring consideration of the income and work tests, the type of care, the number of children in care and whether the child is a school age child. The entitlement to Child Care Rebate is consequential on CCB.

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CCB was designed to ensure that all families with children had access to child care. The means testing ensures that low income families, with income of less than $39,785, receive higher rates of assistance, while the work/training/study test provides a higher level of benefit to families where both parents are in work. The rate depends on whether the provider is approved or registered, but the current hourly rates are $3.78 and $0.632 respectively, which are well below the hourly cost to a child care provider to provide care.

> ***Recommendation:*** *That if the CCB is retained, the CCB rates be reviewed to reflect the cost to a child care provider, less a co-contribution from parents that does not exceed 10%.*

The Child Care Rebate (CCR) has been offered in several forms over time. In its current form a rebate of 50% of out of pocket costs, after CCB, is paid to parents who can claim fortnightly quarterly or annually or, from July 2011, nominate that it be paid direct to a registered child care provider. CCR is capped at $7,500 per child annually. As the cap is an

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[7] Taskforce on Care Costs. (2006) Where to Now? 2006 Final Report.

[8] Standing Committee on Family and Human Services. (2006) Balancing Work and Family. Parliament of Australia.

[9] Human Rights and Equal Opportunity Commission. (2007) It's About Time: Men, Women, Work and Family. Sydney: HREOC.

[10] National Foundation for Australian Women. (2010) Barriers to Women's Employment Women and Recession Project: Executive Summary. NFAW.

annual cap, rather than an hourly rate, it particularly affects women working full time and/or using higher cost centres. It could be a significant barrier to a woman increasing her hours from part time to full time: a woman paying $80 per day would be under the cap at four days per week, but the fifth day would increase her EMTR by 50%. Child care centre operators report a significant number of parents using care for four days a week.

Many women are calling for tax deductibility of child care. Interviews with women have shown that these women believe that tax deductibility will result in a full refund of child care costs. In fact the current system provides more generous benefits than tax deductibility, as the rebate is higher than the highest personal marginal rate of tax. It also distributes the benefits more equitably, encouraging low income women into the workforce. Further, under the arrangements from July 2011 the rebate may be paid fortnightly to a child care centre, whereas tax deductibility would require either waiting until the end of the year or adjustments to PAYG deductions.

Apart from the misunderstanding as to the impact of tax deductibility, the driver for change may be that the current cap of $7,500 per child annually is seen as inadequate by women paying for care in higher cost centres. As the rebate must be matched by parental contributions, this means the rebate exhausts when out of pocket costs exceed $15,000, or $68 per day (allowing for CCB at the minimum rate). If the child care provider charges $100 per day, the effective rebate drops to about 31%.

Our recommendation of a daily rate is based on the usage patterns of many women, who utilise child care for fewer than 5 days per week. The current structure of the cap does not differentiate between women using care for 3 or 5 days. We do not believe that this would impose a significant administrative burden on child care centres as they are currently required to report attendance for CCB purposes. The cap should reflect the average cost of childcare, and be reviewed regularly to reflect cost increases. We note that in 2006 the Taskforce on Care Costs recommended an annual cap of $10,000, which would have provided a subsidy of $42 per day ($84 fees). We note that the Office of Early Childhood Education and Child Care (2010) reported that in April 2010 the average cost of childcare is $60.68 per day. However this is a statistical average and costs vary according to location. Parents should not be penalised because they live in areas where childcare is more expensive.

> ***Recommendation:*** *We endorse Recommendation 99 of the Henry Report, relating to the combination of CCB and CCR into a single benefit however we do not endorse the reduction of the base rate to the marginal tax rate as this would reduce the current level of assistance. The benefit should be:*
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> - *Work tested, to prioritise access to families using child care to enable the parents to work, study or attend a training programme;*
> - *Means tested, to ensure that the contribution from low income families does not exceed 10% (refer to recommendation 100);*
> - *The base rate of assistance should not be reduced from the current rate of 50%, but the existing cap should be either abolished or increased. The value of the cap should be reviewed to determine the appropriate rate, having regard to local variations in the cost of child care*

When discussing the need for flexible and appropriate care some women called for subsidisation of the cost of a nanny, which can cost up to $80,000 pa. Nanny care is currently classified as registered care, not approved care, and accordingly CCB is limited and CCR is not available. We see no good policy reason for excluding these parents from the same levels of subsidy available to their colleagues who use child care centres. However there are genuine concerns over the protection of all parties to these arrangements, including the nanny. Accordingly such arrangements should include protections in relation to the quality of care, immigration laws and occupational regulations such as the industrial relations and occupational health and safety regulations.

> ***Recommendation:*** *Parents using child care services in the home should be entitled to benefits on the same basis as approved child care services on condition that the person caring for the child(ren) holds appropriate qualifications and immigration status and that all relevant industrial relations and occupational health and safety obligations are met.*

We also heard that many parents have particular difficulties in relation to vacation care and out of hours care. Many child care centres do not offer services to school age children, and out of school and vacation services that do not have the appropriate registration do not qualify for subsidies.   Those services that do accept older children may not have the programs and facilities to keep them engaged and involved.

> ***Recommendation:*** *Parents using out of school care and vacation care services should be entitled to benefits on the same basis as approved child care services on condition that the person supervising the child(ren) holds appropriate qualifications and the daily cap should be adjusted to reflect the hours of care.*

The availability of a Fringe Benefits Tax exemption for child care, facilitating salary sacrificing arrangements, has a distorting effect on the current child care system: both in terms of the extent of public subsidy and in the perceptions of women who do not have access to such schemes.   Access to the concession is very restricted, based on an employer being able and willing to establish a child care centre on its premises. It is also inequitable as it is not consistent to allow salary sacrificing arrangements in relation to a non tax deductible expense; and it is also inequitable to allow an exemption in certain, very restrictive, circumstances while denying it to the majority of employees. However it has been argued that allowing the exemption encourages employers to consider the work/life balance of their employees.

Under the current system, the advantages to employees of salary sacrificing child care fees are limited. As discussed in the context of tax deductibility, the CCR may be higher than the tax advantages under FTB. However parents who would exceed the cap for the CCR do not face a similar restriction on the extent of salary sacrificed child care payments.

> ***Recommendation****: The current FBT exemption for child care be extended to include payments to approved child care providers outside the employer's premises, but the exemption be capped equivalent to CCR; or alternatively the existing FBT exemption should be removed (Recommendation 101).*

Family Tax Benefits Priorities

The 2010 profile of recipients of the FTB shows:

- FTBA recipients are fairly evenly divided into those on maximum benefit (earning less than $46,355), those receiving the base rate (earning less than $94,316 + $3,796 for each additional child), and those on part benefit (between the above thresholds);
- A remarkably small number of FTBA recipients (6.8%) are on the tapered base rate;
- 43% (FTBB) and 35% (FTBA) of recipients are sole parents;
- 67% of FTBB recipients receive the full rate of FTBB, however note that the 43% of recipients who are sole parents are not subject to means testing unless their income exceeds $150,000;
- 23.9% of FTBA recipients receiving the maximum benefit are on other income support, including parenting payment[11]. .

The complexity of the Family Tax Benefit system arises as a consequence of the multiple policy goals that the system is designed to address. The primary goals recognise that families face additional costs, and that low income families need additional assistance (FTBA); and to support families that choose to have the carer remain out of the workforce (FTBB).

The complex structure of the Family Tax Benefit reflects these three primary policy purposes:

- The lower threshold of the FTBA income test allows families earning less than $46,355 to claim the maximum rate of FTBA (means testing);
- The higher threshold allows FTBA to be targeted to low and middle income families, by ensuring that the base rate of FTBA is paid to families with incomes up to that level (affluence testing); and
- The separate income threshold for FTBB limits that payment to families that are substantially single income earners.

However, the consequence of this structure is that families face multiple taper rates and points, depending on the income of the family and the secondary earner in the family. While FTBA is structured so that a family will face one of the two taper rates; the FTBB income test operates concurrently, with the result that where the income of the secondary earner lies in the relevant taper range, and the family income lies within one of the taper ranges, the family faces a withdrawal of both benefits, at a rate of up to 50%. This effect is compounded if the family is receiving other means tested benefits, and is also paying child care fees.

In terms of workforce participation, the current structure has the following outcomes:

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[11] FaHCSIA. (2011) Statistical Paper no. 9: Income support customers: a statistical overview 2010. In: Dept of Families Housing Community Services and Indigenous Affairs (ed). Canberra: Commonwealth of Australia. Tables 53 - 57

- FTBB is frequently regarded as a disincentive to work. Although the maximum entitlement is relatively low, it may be a disincentive to women seeking to enter the workforce on a part time basis;
- The application of two means tests against income earned by the secondary earner in a family may act as a disincentive to women entering the workforce; and
- The maintenance income test applied to FTB when a sole parent receives child support from a former partner and also receives earned income results in high withdrawal rates of the Family Tax Benefit.

In terms of workforce participation there seems to be little merit in continuing to pay FTBB in circumstances where a family has the capacity to increase engagement in the workforce. However sole parents and recipients of income support face particular challenges in entering the job market, and accordingly any loss of FTBB would need to be compensated through other income support payments.

The Henry Review recommendations address this issue through allowing a supplement to all families in addition to the child component, but allowing a higher supplement to all families with a child under 6. This parental supplement would be structured to grant the highest amount to sole parents with a child under six, a lesser amount to dual parent families with a child under six, and the lowest amount to families of either category with children over six years of age. This structure recognises that sole parents need additional help while out of the workforce, and that parents of pre-school age children are less likely to participate in the workforce[12] .

The issue of multiple means tests is addressed through the proposal to restructure benefits to a single benefit, withdrawing the benefits on a single means test. We note that the proposed structure does not incorporate the higher maximum rate currently paid to low income families. While this does considerably simplify the system, the rate structure would need to be set at rates that ensure that those currently receiving the maximum rate do not suffer a reduction in their disposable income. This may be addressed through adjustments to the rate of income support payments, but a significant minority of recipients are not receiving income support payments, and accordingly the preferred approach would be to maintain the level of family payments.

***Recommendations**: We endorse the general direction of Recommendations 90 to 96 of the Henry Review. Specifically*

- *FTBB should be abolished as a separate payment, and incorporated as a supplement to FTB;*
- *This supplement should be reduced when all children of the family are over 6 years of age, consistent with requirements for Parenting Payment;*
- *Sole parents require particular consideration in setting the rates of FTB and appropriate supplements as their capacity to engage in the workforce is reduced; and*

[12] AIFS. (2011) Growing Up in Australia: The Longitudinal Study of Australian Children Annual statistical report 2010. AIFS. (page 30)

- *Combining the benefits into a single amount and applying the means test to the total benefit payable reduces the impact of the double means test on the income of the secondary earner in dual earner families.*

The intersection of child support and family payments creates particular problems for sole parents in relation to the means testing of family tax benefits. Under the Maintenance Income Test, child support that is payable to a recipient of FTB, whether in fact received or not, is taken into account when applying the income tests. The Ministerial Taskforce Report, *Every Picture Tells a Story* identified the anomalies of 'claw back' amounts which are known as the Maintenance Income Test. These arrangements are unfavorable for single parent household when compared to that for two parent families.

- ***Recommendation:*** *We further recommend that the operation of the maintenance income test on sole parents be reviewed to reduce the effective marginal tax rate that applies on earned income when a sole parent is entitled to child support payments.*

Affordable Housing:

Women's advocates see development of a new national policy on affordable rental housing as a top priority for the Commonwealth Government. The impact of the lack of affordable housing may be felt disproportionately by women because of the higher number of women in low paid jobs, women heading single parent families and the higher rates of poverty among older women living alone.

In February 2011 a collaboration of women's advocates hosted a high-level workshop to discuss investment in affordable and accessible rental housing, with a particular concern for women's housing security. The report of that meeting is attached as a separate document. A major concern that emerged from that meeting was that of funding future affordable housing initiatives. The National Rental Affordability Scheme has made some inroads into increasing the number of affordable dwellings and the quality of those dwellings, but future funding of this scheme is not secure.

The recommendations of that workshop included the following:

1. A national policy agenda on access to affordable rental housing is established through a designated Federal Minister for Housing.

2. The housing sector – community housing and housing providers – needs to work with State, Federal and Local Government re:
    a. Funding sources
    b. ……..
3. Funding sources should be supported by governments through initiatives that allow flexibility to the housing developer while offering security to allow it to engage in a long term project.
4. Stimulation of non-government investment to respond to government incentives is key. Such funding proposals could include:
    a. Grants should be made secure and long term through budget processes, and should be sheltered from cuts
    b. Government backed guarantees may be a means of increasing the borrowing capacity of developers
    c. Subsidies to address the gap between affordable rents and market rents, currently available through the tax system, could be paid in a manner that increases cash flow to developers, which will increase their repayment capacity.

………

8. Alternative sources of market based funding need to be sourced. Some issues that need to be considered include:
    a. Alternative investment products
    b. Alternative legal structures for housing providers that may make investment more attractive to institutional investors
    c. Packaging products that would match an investor to a particular development

d. Targeting the Ethical/Social investment market – for instance develop the Social Return on Investment (SROI) in housing
e. Restructuring taxation incentives for housing investors to give greater incentives to investment in affordable rental housing.

To inform the debate on how such funding can be secured, the Equality Right Alliance has commissioned a paper on negative gearing for housing investments, and the impact that negative gearing has on the housing market[13].

The options presented in that paper can be classified as limiting access to negative gearing; quarantining losses from negative gearing; or, as recommended in the Henry Review, limiting the concessions on capital gains. We note that each reduction of 10% in the CGT concession would raise around $1b per year that could fund affordable housing initiatives.

> ***Recommendation:*** *That the necessary funds be provided to ensure the continuation of the NRAS scheme; and*
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> *We support Recommendation 14 to reduce the current capital gains tax exemption from 50% to no more than 40%; however the 50% concession should be retained in relation to investment in affordable and social housing, through approved entities.*

Expansion and Better Promotion of Re-training Options

While the Commonwealth has introduced many initiatives to encourage re-skilling adults, it is clear from the recent consultation that for many women these remain unknown. Unless women are directly in the social security system and in receipt of income support payments they may never be in contact with Job Services agencies or with Centrelink.

More innovative information distribution is required. Women who are formally caring for adults or children in the home ought to be a target to enable them to plan for their futures.

> ***Recommendation:*** *We recommend allocation of funding to promote the range of vocational education and training and other workforce re-entry programmes available to women returning to the workforce.*

[13] The Australia Institute, 2011(attached)

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