

Supplementary submission to submission dated 16 May 2006.

## **INTRODUCTION**

Chairman and committee members

## **QUESTIONS ASKED ON 16 MAY 2006.**

1. On 16 May 2006 I was asked various questions about what I would do, to make the system provided by the Commonwealth government fairer in the provision of child care assistance. The context of the question was the issue of making child care costs tax deductible. Further to consideration of the question, my observations would be as follows.

## **CAPITAL EXPENDITURE**

2. My first observation is that the expenditure outlined by Tanya Pilbersek being capital expenditure to build more centres, is affordable with the current surplus, and should be implemented as quickly as possible.
3. However, in respect of ongoing solutions, changes to policy are required.

## **Tax deductibility and parental choice**

4. The costs of child care incurred by working parents should be recognised by the Treasurer, and the Minister for Finance as necessarily incurred by working parents under s8-1, 51(1) of the Income Tax Acts. Accordingly, these costs are in principle tax deductible. The tax office can then issue a public ruling informing taxpayers that from the nominated start date of the ruling, the costs of child care incurred by parents who under take paid work are deductible.
5. I would suggest the deductible costs of child care cannot be restricted to home based care or care provided in long day care centres. Such a restriction would be grossly unfair. Accordingly, parents claiming the deduction must do so within the context of obtaining income from personal exertion, or personal exertion for the dominant purpose of generating income.
6. However, deductibility should be tied to care provided by accredited carers. This system is already in place for centre based care by way of provider numbers for reconciliation with family assistance payments. However, also currently, in long day care centres, care for 0-2 year olds must be provided by an accredited mother care nurse. For these types of employees an existing accreditation system is already in place. However I note recent reports in the print media are that there are not enough places for child workers to gain accreditation. Without further information, I would accept this as correct.

7. However, I would propose accreditation as a pre-requisite to eligibility to claim a deduction, irrespective of whether the taxpayer parent chooses home based care, or what most of us refer to as a nanny, or centre based care. The provision to be introduced is that the parent claiming the deduction must supply the carer's accreditation information. I would also recommend that where the parent chooses a nanny, they must also supply the carer's tax file number.
8. What I have set out above, will allow working parents who choose home based care to have access to the same equity as working parents who have centre based care. It will also direct the behaviour of parents who choose nannies away from choosing illegal workers who are not in the tax system towards a preference for those in the tax system. It will also direct parents behaviour towards choosing accredited carers or nannies to come into the mostly unsupervised home environments of the working parents. This is preferable if you agree an insurmountable issue in home based care for 0-5 is the inability of the children to inform their parents about their experience of their carer. However, I accept that there may be an underlying shortage of accredited carers which I can't comment upon here.

#### **Deductability capped**

9. In respect of the amount of the deduction to be claimed it should be capped at a certain amount to inhibit abuse of the deduction and assist certainty in any economic modelling of its costs. I would suggest it be capped at the rate set for community based care per child, or a % of it. I have suggested the rate be referable to community based care centres as these are not for profit organisations and are motivated to provide quality care and more likely to reflect the actual cost of the provision of quality care. The amount of the cap should be reviewed each financial year and gazetted.

#### **Test for deductability**

10. This policy change has to be built around the concept of an allowable deduction for working parents. Accordingly, parents claiming the deduction must do so within the context of income from personal exertion, or personal exertion for the dominant purpose of generating income.
11. This raises an issue of whether or not this discriminates against stay at home parent. Although not intended to be discriminatory, an inevitable result is that it may appear so to stay at home parent. On this note, currently, long day care centres and kindergartens have a discretion as to whom they will provide care to and when care will be withdrawn. My understanding is that centres and kindergartens do exercise this discretion in favour of working parents.
12. Parents who choose not to work, or who currently work few hours or whose taxable income is less than a certain amount are currently eligible to receive Family Tax Benefit Part B. This benefit is not means tested by reference to the principal provider. This seems to work for those who are eligible, and I see no reason why it

should not stay in place because providing tax relief to working parents does not inhibit the assistance presently provided to parents who chose not to, or chose to work few hours or stay within the cut-off limits for family tax benefit B.

13. I have assumed there would be an overlap between parents who work more than 15 hours per week and are PAYG taxpayers, but are still lowly paid to the extent they stay within the family tax benefit part B limit. Establishing a minimum amount of hours worked or a minimum salary, in line with the cut off for Family Tax Benefit B, at which child care costs become deductible, would provide tax relief for parents in lowly paid work (which is frequently the work the second working parent is forced to take). My view is that the amount of the deductible benefit should not be on a sliding scale - once a parent is eligible, he or she is no longer eligible for family tax benefit B, and a parent working less than 15 hours per week will claim fewer child care costs than a full time working parent.
14. For parents who are self employed, a test similar to the 80:20 test for independent contractors could be implemented, where the parents are claiming for the cost of home based care. Along these lines, I have considered a test that where more than 80% of the deductions of a self employed parent are for child care, then the eligibility for the deduction is cancelled. However, I doubt if this would provide equity given the costs of child care are high. Without some statistical information comparing the taxable incomes of self employed parents with the % costs of child care, I can't really say if this would be achieve the desired income. I would consider tying deductability with hours worked. This would necessitate a schedule to be created from the capped daily cost of child care setting out hourly rates of care.

Edwina McLachlan

16 May 2006.