

Audit Report No. 12, 2006-07, Management of Family Tax Benefit Overpayments

Introduction

The Family Tax Benefit programme

- 18.1 The Family Tax Benefit (FTB) programme was introduced on 1 July 2000, as part of a broader set of reforms to Australia's taxation system. The FTB programme is intended to help all eligible families with the cost of raising children and, in addition, to provide extra assistance to families with one main income.
- 18.2 The FTB Programme effectively replaced nine separate types of assistance to families, previously delivered through both the taxation and social security systems. FTB consists of two parts:
- FTB Part A (replaced Family Allowance, Family Tax Payment (Part A) and Family Tax Assistance (Part A)) and;
 - FTB Part B (replaced Basic Parenting Payment, Guardian Allowance, Family Tax Payment (Part B), Family Tax Assistance (Part B), the 'with children' rate of the Dependent Spouse Rebate and the Sole Parent Rebate).

- 18.3 FTB payments are means-tested, with the rate of payment affected by the family's actual income – including “maintenance” income – and the number, age and income of children for whom FTB is claimed. FTB Part A is the most common payment and is paid per child. It includes a supplement, also paid per child, after the end of the financial year. FTB Part B provides extra assistance to single parent families and two parent families with one main income. It also includes a supplement, paid per family, after the end of the financial year. In 2004-05, the FTB programme delivered a total of \$13.9 billion to approximately 2.2 million FTB customers.

The Family Assistance Office

- 18.4 The Family Assistance Office (FAO) was established as a one-stop shop for customers to access the full range of family assistance services, including FTB Part A and FTB Part B, Child Care Benefit, Maternity Payment and Maternity Immunisation Allowance.
- 18.5 The FAO is a ‘virtual’ agency resulting from a joint venture between the Department of Families, Community Services and Indigenous Affairs (FaCSIA), Centrelink, the Australian Taxation Office (ATO), and Medicare Australia. FAO offices have been established in over 550 Centrelink Customer Service Centres, Medicare Australia Offices and ATO shopfronts across Australia. Until recently, Medicare Australia Offices functioned as a ‘post office’ for FAO claims, which were forwarded to Centrelink for processing. Currently, Medicare Australia is taking on a more active role and all Medicare Australia Offices offer the full range of FAO services.

Features of the FTB programme

- 18.6 FTB customers must lodge a claim within two years of the end of the financial year for which they are claiming. Therefore, a customer who wished to claim FTB for 2004-05 had until 30 June 2007 to lodge his or her FTB claim form. Customers can elect to have their FTB entitlements paid in a number of ways:
- **A single, annual payment** – accessed by lodging a claim with the FAO, once the family's actual income for the financial year is known;
 - **A single, annual payment** – accessed by lodging an FTB tax claim with the ATO, at the same time that the customer lodges their tax return with the ATO;

- **A fortnightly payment** claimed through the FAO – with the payment based on an estimate of the annual family income. Customers may also choose to receive the base rate of FTB fortnightly, and the remainder of their entitlement in a lump sum at the end of the financial year, once the actual family income is known; and
 - **A fortnightly reduction of Pay-as-You-Go (PAYG) tax** (also called withholding tax), claimed through the ATO.
- 18.7 The legislation underpinning the FTB programme is closely linked to Australia's taxation system. FTB eligibility and payment rates are based on a family's adjusted taxable income for a financial year, as advised by the ATO through the lodgement and assessment of tax returns.
- 18.8 As a result, a family's actual FTB entitlement can only be determined at the end of the financial year, once the family's tax returns are lodged and assessed by the ATO. Therefore, fortnightly FTB payments are prospective payments, based on an estimate of customer's (and partner's where applicable) adjusted taxable income for the year.

How FTB debts arise

- 18.9 Essentially FTB customers may incur a debt to the Commonwealth in one of four ways:
- qualification – where a family's circumstances change so that the family is no longer eligible for FTB, or no longer eligible for the rate of FTB paid;
 - reconciliation – where the reconciliation process has determined that the customer has been overpaid, when compared to their correct entitlement;
 - non-lodger – where the customer and/or partner have not lodged a tax return within the prescribed time, or have not informed the FAO that they are not required to lodge a tax return for the relevant financial year; and
 - administrative processes – where a computer processing error, or human error on the part of a FAO staff member, causes the customer to receive more FTB than they are entitled to.

- 18.10 Once FTB debts are identified, through either an automated process such as reconciliation or the work of individual FAO staff, as is often the case for qualification debts, the debt is formally raised in Centrelink's Debt Management Information System (DMIS) and referred to Centrelink's debt recovery network, for recovery action. Some debts are recovered immediately by automatically offsetting available components of a customer's supplement payment and/or tax refund against the debt. Where this cannot occur, staff in Centrelink's debt recovery network seek to contact the customer and negotiate a repayment arrangement. Under certain conditions, debts may also be waived, temporarily written off or permanently written off.

History of FTB debt

- 18.11 Most years, in its annual report, FaCSIA publishes statistics describing the number of FTB customers who receive overpayments, underpayments and nil adjustments. These statistics relate to the FTB entitlement year immediately preceding the year in which the annual report is published.
- 18.12 Although these statistics are prepared 12 months after the end of the FTB entitlement year, FTB customers have up to two years after the end of the entitlement year to lodge a claim. Therefore, the statistics included in the Department are accurate at the time of the publication of the audit. Yet these figures may further mature as some additional customers claim FTB in the second year and as others are reconciled when customer and partner lodge tax returns in the second lodgement year.
- 18.13 The ANAO's analysis in this regard examined how FTB reconciliation figures have matured over time for the 2002-03 FTB entitlement year. The figures showed that as at December 2003 some 435 448 customers had been identified as receiving a top-up payment in respect of the 2002-03 FTB entitlement year. However, by December 2004, 601 617 customers had been identified as receiving a top-up payment. A similar pattern is evident for customers identified as nil change and those incurring a debt – that is, with the passage of time and the completion of more reconciliations, more customers are identified in each category until, about 18 months to two years after the end of the entitlement year, the numbers stabilise.

- 18.14 FaCSIA's annual report for 2003-04 reported the number of top-ups for the 2002-03 FTB year as 552 912 – using the most up to date information available at the time of its publication. However, at the time of conducting the audit, a more accurate figure of 612 229 was available using FaCSIA's historical time series of reconciliation outcomes.
- 18.15 Further analysis by the ANAO showed that after the first year of the FTB programme, there was a decline in the number of FTB customers incurring a reconciliation debt, from year to year. In addition, the FTB population has been slowly increasing in size. Taking this into account reveals that the percentage of FTB customers incurring a reconciliation debt has decreased – from 33 percent of the FTB population in 2001-02, to 29 percent in 2002-03, to 10 percent in 2003-04 and seven percent in 2004-05.
- 18.16 An FTB debt is perceived by customers as a negative outcome and the repayment of these debts can cause some families at least some degree of financial hardship. Reducing the frequency of customers incurring a debt has been a priority for the FAO over recent years.

Audit objectives

- 18.17 The audit examined the effectiveness and efficiency of the FAO's management of overpayments, within the FTB Programme. In particular, the ANAO considered the FAO's activities in relation to FTB debt prevention, identification, raising and recovery. The audit also compared the FAO's policy documentation and guidance material for staff, against relevant sections of Family Assistance legislation.
- 18.18 Centrelink manages the majority of activity in relation to FTB debts, and has consolidated operations within six debt management centres. During this audit, the ANAO observed various debt management activities at Centrelink's Melbourne, Perth, Darwin, Brisbane, Sydney and Coffs Harbour debt management centres.
- 18.19 The ANAO also interviewed key FAO staff members at a number of Centrelink Customer Service Centres and Call Centres, across Australia. In addition, the ANAO discussed aspects of FTB Programme administration with programme specialists and information system staff in Centrelink, FaCSIA, Medicare Australia and ATO national offices, which are located in Canberra.

- 18.20 During the audit, the ANAO reviewed various departmental files, reports, statistical collections and data sets. The ANAO also examined a range of FTB claim forms, information booklets and agency Internet sites. Fieldwork for the audit was primarily undertaken during April 2006 to June 2006.

Overall audit opinion

- 18.21 Through a series of debt prevention strategies and measures, the FAO has significantly reduced the incidence and extent of customer debt arising from the reconciliation of FTB entitlements. In the first two years of the FTB Programme, approximately 33 percent of the FTB population incurred a reconciliation debt, whereas in the most recent two years¹ (at the time of the audit), the incidence of reconciliation debt had fallen to under 10 percent of customers.
- 18.22 In contrast with the range of activities targeting reconciliation debt, the ANAO noted that less attention had been paid to reducing the incidence of non-lodger debt – that is, debt arising from the failure to lodge a tax return (where required) in support of an FTB claim. The amount of non-lodger debt incurred each year has remained relatively stable. However, due to the reduced incidence of reconciliation debt, non-lodger debt now accounts for a greater proportion of the outstanding FTB debt stock than reconciliation debt.
- 18.23 The FAO has improved the rate at which FTB reconciliation debts are recovered from customers. Increased standard withholding rates, together with a FAO large debt initiative, announced in the 2005–06 Federal Budget, have contributed to this improvement. The ANAO noted that the recovery rate for non-lodger debt is significantly lower than that for reconciliation debt and that action regarding non-lodger debt was not included in the FAO large debt initiative.

1 Latest figures available at the time of the audit were for the 2003–04 and 2004–05 FTB entitlement years.

ANAO recommendations

Table 18.1 ANAO recommendations, Audit Report No. 12, 2006-07

1.	The ANAO recommends that the FAO evaluates the introduction of the new FTB claim form (FAO04), for its impact on administrative workload and consistency of advice to new FTB customers.
	Agency Responses: Agreed
2.	The ANAO recommends that, building on the success of the strategies used to reduce reconciliation debt, the FAO develops and implements a customer awareness raising strategy and/or administrative measures, specifically targeted at reducing the incidence of non-lodger debt.
	Agency Responses: Agreed

The Committee's review

18.24 The Committee's review consisted of a public hearing on 28 February 2007. It was attended by witnesses from the ANAO, Centrelink, Department of Families, Community Services and Indigenous Affairs (FaCSIA), and Medicare Australia. The hearing took evidence on the prevention of FTB debts, the recovery of debts, the management of levels of debts and issues relating the child care tax rebates.

Preventing FTB debt

- 18.25 Part of the FAO's role is to assist customers in not incurring an FTB debt. Several debt prevention initiatives are used to fulfil this obligation. These include:
- the provision of sufficient information to help customers understand the FTB programme – the eligibility requirements and the obligations of FTB recipients;
 - improved communication with customers - in particular, educating customers as to the importance of correctly estimating the family's annual income;
 - identifying customers at high risk of incurring FTB debts and directly intervening to assist those customers reduce their risk; and
 - legislative and policy changes, many of which provide customers with options for reducing the likelihood of incurring a debt.²

2 ANAO Audit Report No.12, 2006-07 *Management of Family Tax benefit Overpayments*, p. 50.

- 18.26 The Committee asked Centrelink what action had been taken to specifically address non-lodger debts. Centrelink replied that:

We have particularly looked at our current forms, advice and information we provide to the public and also nonlodgers specifically. We are reviewing all this public information. We are reviewing the forms and all the information around nonlodgers and tax returns... We are putting out a new letter to remind families of the requirement to lodge a tax return for family assistance... All families will receive a reminder of their obligation to lodge a tax return or to advise the Family Assistance Office, if they are not required to lodge, in May this year, when the new financial year estimate letter is sent. So we are using all the mechanisms that we currently have, and more, to encourage people to be aware of the non-lodgement issue.³

Non-lodgers

- 18.27 The ANAO's report stated that there were a high proportion of customers with multiple debts.⁴ The Committee asked both Centrelink and the ATO for comment. Centrelink responded that:

We need a combined strategy across the agencies dealing with nonlodgers. But in particular in our case what we are specifically looking at is what material people are currently getting which they are obviously, or potentially, not responding to. Is it because they do not understand it? Is it because there is not enough frequency in that information? So we are refining that as well as developing more information on the website to advise people of their requirement to lodge. This is a broader issue about several contacts that we have with nonlodgers and also that other organisations in the FAO also have to have.⁵

- 18.28 The ATO added:

...but we are working collaboratively with the other agencies and assisting in the development of some of those products that we just talked about – the reminders et cetera. We have

3 Centrelink, 28 February 2007, *Transcript of Evidence*, p. 2.

4 ANAO Audit Report No.12, 2006-07 *Management of Family Tax Benefit Overpayments*, p. 109.

5 Centrelink, 28 February 2007, *Transcript of Evidence*, p. 2.

done sampling of the nonlodgers and we also found some levels of 'no requirement to lodge', where there is actually no requirement to lodge. Prima facie, the tax law sets out obligations for people to lodge, but there is no obligation on people to tell us if they have not got a requirement to lodge. So within the broad numbers, when you actually get into it, you find that some people do not have that lodgement obligation...⁶

18.29 The ATO advised the Committee that their efforts in this regard are primarily focused around high revenue risks such as individuals in high profile occupations like the legal profession. The ATO is working collaboratively with other agencies to identify individuals in these categories and also working on strategies to require these individuals to lodge.

18.30 The Committee was concerned about this particular view taken by the ATO. While focussing efforts on requiring people with higher incomes to lodge tax returns is important, it is also important to pursue all individuals who are non-lodgers. The Committee put the view to the ATO that by allowing accumulation of debts by families, especially those who are primarily reliant on Government benefits, the system unfairly places added pressure on those families, as repayment of the debt would account for a large proportion of their income. The ATO responded that:

...by working together across the agencies we will actually focus our effort on the people who require assistance to lodge. That is an important distinction: the ATO assisting people to lodge versus the ATO forcing people to lodge. The sanction for nonlodging is prosecution in the courts. I am not sure that the people who are involved in having these debts are the sort of people we would want to put before the court. So we need to find that middle ground, that strategy that actually encourages them to lodge and assists them to lodge, and that is where working across agencies, we believe, would be a better approach.⁷

18.31 The Committee was also interested in learning about the profile of non-lodgers. Part of the Committee's concerns included that the ATO is perceived as not having a commitment to its Tax Help programme. Tax Help is a free service offered by a network of Tax Office-trained

6 Australian Taxation Office, 28 February 2007, *Transcript of Evidence*, p. 3.

7 Australian Taxation Office, 28 February 2007, *Transcript of Evidence*, p. 3.

community volunteers. Tax Help is aimed at people who have simple tax returns (that is, salary and wages, bank interest, Centrelink payments and dividends) who meet an income test.

18.32 In defending its commitment to Tax Help, the ATO responded that:

The analysis of income levels of this category of non-lodgers is not presently available. Analysis of the sample group is presently underway and will be provided as soon as possible.

As noted in our response to the ANAO's report, we fully support the need to develop an understanding of the circumstances surrounding non-lodger debt in order to develop strategies to reduce the incidence of non-lodger debt.

To this end we plan to undertake further analysis of this population, in conjunction with FaCSIA and Centrelink in order to determine characteristics, including income levels.

This will provide a platform from which a range of measures can be developed to address non-lodgement of income tax returns by FTB recipients.⁸

18.33 FaCSIA was able to provide the Committee with some information on the department's own analysis of non-lodgers. It was stated that the most significant finding is that the composition of the non-lodger population does not differ from the general FTB population, that is to say, factors such as ethnicity and child support liabilities do not make an FTB recipient more or less likely to be a non-lodger.

18.34 In relation to strategies being used with the non-lodger population FaCSIA added that:

Part of what we have been doing across the agencies is quite a lot of analysis of who the nonlodgers are and then thinking about what sorts of strategies would work best in responding to the issue. ...There are a variety of strategies being looked at... They range from being of a relatively low intensity – further communications while, for example, drawing their attention to what other sources of assistance might be available – all the way through to being a potentially quite intensive interaction with those specific customers around 'Why haven't you lodged? Is there some problem? Can we help you?' and that sort of thing, which is not dissimilar from some of the strategies that have been employed around

reconciliation debt where for some groups it has been quite intensive.⁹

Recommendation 31

The Committee recommends that FaHCSIA provide the Committee with a written update in December 2009 in relation to the strategies being used in responding to the issue of non-lodgement.

18.35 The Committee also asked whether literacy or numeracy were contributing factors in terms of customers incurring FTB debts. FaCSIA informed the Committee that it would conduct research to examine whether these factors influence the current rate of non-lodgement exists.

18.36 The Committee also asked whether those who had English as a second language were at greater risk. FaCSIA responded:

Not in the research that we have. All that we could really use there was country of birth as a proxy indicator and, as I said, nonlodgers are slightly more likely to be born in Australia than are the general FTB population. That does not seem to indicate that, though it is possible.¹⁰

18.37 The Committee asked the ATO about the strategies used to minimise instances of multiple non-lodgers. The ATO responded:

I think understanding the population and the attributes of the other agencies is a way forward. Across-the-board there is a whole range of reasons why people or businesses do not lodge. Payment is certainly an issue. They do not have the ability to pay so the easiest way is not to crystallise the debt by lodging the return or the activity statement.¹¹

That is certainly a big issue. Typically it compounds as well – they let one go, then they let two go, and then it has become too hard for them to face. The sanctions we employ, as I mentioned, are to prosecute, but there are many people

9 Department of Families, Community Services and Indigenous Affairs, 28 February 2007, *Transcript of Evidence*, p. 4

10 Centrelink, 28 February 2007, *Transcript of Evidence*, p. 5.

11 Australian Taxation Office, 28 February 2007, *Transcript of Evidence*, p. 5.

whom it is absolutely not appropriate to prosecute. We work on the assistance angle: providing them with avenues and working with their tax agents. Seventy-five percent of individuals use tax agents to lodge income tax returns and 94 percent of businesses use tax agents to lodge returns, so in recent years we have really angled it at the tax agents – we work with them and they work with their clients – to assist people to lodge and get them to lodge.¹²

Debt raising and recovery

18.38 The Committee was interested in the areas of raising and recovery of non-lodger debt. The ANAO's audit report stated that if the customer has not responded to reminders and requests for information from the FAO and has not lodged a tax return by November of the second lodgement year – that is, some 18 months after the end of the year FTB payments were received – the entire amount of FTB payments received in the relevant FTB year is raised as a debt. Customers are notified in writing by the FAO.

18.39 The Committee asked whether there had been a sufficient shift in focus by FAO agencies from recovery of debt to assisting customers to correctly lodge their tax returns and informing them of strategies to avoid debt. Centrelink responded that it was assisting FaCSIA using its current mechanisms.

18.40 FaCSIA added:

There is one really striking difference between reconciliation debt and other forms of FTB debt and nonlodger debt. The nonlodger debt itself is actually notional. The moment the person lodges, the nonlodger debt itself disappears. The person might then have a reconciliation debt associated with having lodged the tax return and then being able to have their income properly assessed. It is probably one of the reasons the government has been less focused on aggressively going after these people, in the sense that when the debts disappear you go back to just what their reconciled entitlement was.

The biggest issue for them, of course, is that for as long as they have a nonlodger debt they are also not receiving, on an ongoing basis, their full entitlement. So there are already some incentives built in for them to lodge: first of all, they

will get their correct entitlement and, secondly, they will get access to their FTB supplements, which otherwise they do not get.¹³

18.41 The Committee followed this by asking whether non-lodgers might have an underlying fear of lodging their returns based on the fact they may incur a debt through the reconciliation process. FaCSIA spoke of the research that had been proposed which would:

...get some form of external consultant to talk to these people in an environment where they might tell us some of these things...so that we get that information, because we do not have that now. But it is hard to imagine that that would be driving them because of what actually happens now if they have not lodged by the end of the financial year after the entitlement year. There is the entitlement year and then the first lodgement year and the second lodgement year, and if they have not lodged by the end of the first lodgement year we actually write to them. In November, we issue them with a debt notice: we write to them and say, 'Because you haven't lodged, all the FTB that you received in the entitlement year is now a debt and you owe us, and collection action will start within 28 days.' So, when you think about it, there is no way at that point that lodging a tax return could produce a worse outcome than where they are at that point in time.

If they continue on payment then there are standard rates of withdrawal from their entitlement. If they are in the lower income group and they are receiving above the minimum rate of FTB part A, we claw back 25 percent of their payment on an ongoing basis. If they are on FTB part B only or if they are on the minimum rate, we claw back 95 percent of their payment because people in those groups are likely to be on higher incomes. In fact, out of the nearly 69,000 nonlodgers we have had so far, we have actually had 19,000 who have repaid their nonlodger debt – they just paid the lot back rather than lodging. This is somewhat mysterious to me.¹⁴

13 Department of Families, Community Services and Indigenous Affairs, 28 February 2007, *Transcript of Evidence*, p. 6.

14 Department of Families, Community Services and Indigenous Affairs, 28 February 2007, *Transcript of Evidence*, p. 7.

- 18.42 The Committee asked Centrelink if it still employed staff in the capacity of Financial Services Officer and enquired as to the role such staff play. Centrelink responded affirmatively, but noted that its Financial Services Officers are primarily involved in helping age pension customers, particularly those with complex income and assets and also conduct public seminars on financial arrangements. The role of its Financial Services Officers is primarily to assist with the financial needs of older Australians and those of pension age. The scheme, which includes seminars, had not been extended to those in other groups such as single parents or people on low incomes.

Recommendation 32

The Committee recommends that the role of Centrelink's Financial Services Officers be extended to include advice to groups of customers who may find the provision of information helpful in their calculations about FTB entitlements.

Managing the stock of FTB debt

- 18.43 The stock of FTB debt is constantly shifting. Amounts are constantly being added to the stock of debt – as customer debt is identified and raised – and other amounts being subtracted from it – as debts are recovered from customers or are otherwise removed from the debt stock.
- 18.44 Typically, the bulk of reconciliation debts are identified in the first half of each financial year, as customers lodge their tax returns for the previous year(s) and the reconciliation process is conducted. Non-lodger debt is usually raised in the November of the second lodgement year – 18 months after the end of the year during which FTB payments were received by the customer.
- 18.45 The Committee asked FaCSIA for advice on the extent of the non-lodger population. FaCSIA responded:
- The original number of people who did not lodge in that year was around 55,000. At the time we did this work – which was 30 June last year, so more would have lodged since then – 23,000 had subsequently lodged. Seventy-eight percent of that group – that is over 18,000 of them – received a top up totalling around \$34.2 million. Twenty-one percent – 4,900 – received a debt, but that total level of debt was \$8.7 million.

Looking at those figures, when these people finally lodge, we spend more than we save from an Australian government perspective. The residual who are not lodging may not be the same.¹⁵

Case management

18.46 The Committee was interested in FaCSIA's approach to case management when dealing with non-lodgers. In particular, the Committee asked FaCSIA about its follow up contact with customers who have not yet lodged a return. FaCSIA responded:

Such a measure as this for the nonlodger group is something that the ANAO refers to as the sort of strategy that might be appropriate as an administrative strategy. And it is the sort of thing we are discussing with the minister...if the government chose to do something like that, there would be further discussion between agencies on the exact terms...¹⁶

18.47 The FAO agencies also alluded to the difficulties in setting up an intensive follow up programme to deal specifically with non-lodgers, as is the case with the group of customers who are identified through the Assistance to Families at Risk of Overpayment (AFRO) project. The AFRO project identifies the customers who are at the highest risk of an overpayment (including those with previous reconciliation debts) and delivers intensive follow-up intervention to prevent debts occurring. FaCSIA stated:

The difficulty with running an AFRO-like strategy in the case of nonlodgers is that we cannot predict who are going to be nonlodgers. The biggest predictor of someone not lodging is that they have not lodged in the previous year. In the case of the AFRO measure, we are targeting people who are at risk of giving us an incorrect estimate of their income, and we know some of the determinants of that – they are people with casual employment and factors like that. We can pick a group and try to prevent it occurring in those cases. That is much more difficult in the case of nonlodgers. Your biggest predictor is that they have not lodged in the past, so a strategy more like the government's large debtor measure, where we currently

15 Department of Families, Community Services and Indigenous Affairs, 28 February 2007, *Transcript of Evidence*, p. 9.

16 Department of Families, Community Services and Indigenous Affairs, 28 February 2007, *Transcript of Evidence*, p. 8.

case manage people who have large reconciliation debts, might be more appropriate. Something like that in the case of nonlodgers is something that we are exploring.¹⁷

- 18.48 The Committee asked Medicare Australia for an example of what procedures would be followed if it received signals about a family at risk. Medicare Australia responded that it has mechanisms for referring 'at risk' customers to Centrelink where necessary.

Recommendation 33

The Committee recommends that the FAO implement a program of intensive assistance to the non-lodger population potentially based on the Government's large debtor measure and provide a report to the Committee on measures adopted to strengthen assistance.

17 Department of Families, Community Services and Indigenous Affairs, 28 February 2007, *Transcript of Evidence*, p. 8.