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# WORKING GROUP REPORT

## Women and Taxation





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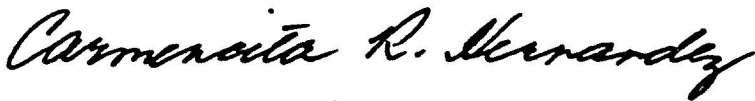
November 4, 1992

The Honourable Floyd Laughren  
Treasurer of Ontario and Minister of Economics  
7th Floor, Frost Building South  
7 Queen's Park Crescent  
Toronto, Ontario  
M7A 1Y7

Dear Minister:

The Women and Taxation Working Group of the Ontario Fair Tax Commission is pleased to submit its final report.

Yours truly,

A handwritten signature in black ink, reading "Carmencita R. Hernandez". The script is cursive and fluid, with the first name being the most prominent.

Carmencita Hernandez  
Chair  
Women and Taxation Working Group

## **Women and Taxation Working Group Membership List**

Charles Black	Vice President, Insurance Operations, Canadian Life and Health Insurance Association
Marlene Gilbert	Director of International Taxation, Northern Telecom
Nathan Gilbert	Executive Director, Laidlaw Foundation
Marg Harris	Provincial Board Director, Middlesex District, Federated Women's Institute of Ontario
Tina Head	Labour Representative
Carmencita Hernandez (Chair)	Past Chairperson, Ontario Coalition of Visible Minority Women
Frances Hogg	Chair, Strategic Planning Task Force, YWCA
Kathleen A. Lahey	Professor, Faculty of Law, Queen's University
Julie Y. Lee	Lawyer, Osler, Hoskin & Harcourt
Joanne E. Magee	Assistant Professor, Taxation, Department of Administrative Studies, Atkinson College, York University
Janet E. Maher	Ontario Women's Action Coalition
Maryka Omatsu	Lawyer
Mary Anne Palangio	Chartered Accountant, Deloitte and Touche
Thomas E. G. Warner	Coalition for Lesbian and Gay Rights in Ontario
Jean R. Woodsworth	Retired Social Worker, Past President, One Voice, The National Seniors Network, Chair of Issues Committee of One Voice
Paul Zarnke	Executive Director, Family Service Association of Toronto

## EXECUTIVE SUMMARY

### Mandate of the Working Group

The Women and Taxation Working Group is one of eight groups established by the Treasurer to answer specific questions regarding the fairness of the current tax system. The Treasurer's questions to this group were:

*Does the tax system discriminate against women?*

*What changes could be made to the tax system that could address discrimination and/or enhance progress towards the elimination of inequities faced by women?*

### The Process

The Treasurer appointed the working group members in mid-September 1991 and asked them to report by the fall of 1992. They included tax professionals and academics, as well as members of the business community, women's movement, seniors' movement, gay and lesbian community, community service organizations, and the trade union movement. Working group members were all volunteers who donated both their time and their expertise to the process.

### Framework for Analysis

Working group members concluded that an analysis of the impact of the tax system on women must begin with the socioeconomic context within which the tax statutes operate. The central feature of this context is that women enter into the tax system from a position of economic inequality. This inequality results in systemic discrimination against women in the tax system.

Women's primary responsibility for the young, the sick and the frail elderly is a critical factor contributing to women's inequality and in determining the impact of the tax system on women as compared to men. As a result, in making its recommendations, the working group focused on the interaction of the tax system with this unpaid work.

When considering how they would evaluate, and subsequently make recommendations, on reforming the tax system, working group members began with two goals:

- The first goal is to enhance women's economic independence. A requirement for economic independence for the vast majority of women is paid employment and sufficient income in retirement.
- The second goal is to recognize women's autonomy. A requirement for

recognition of women's autonomy is that the provisions in the tax system treat women as individuals, distinct from their familial relationships and, in particular, from their male partners.

## **Recommendations**

The working group concluded that the following changes should be made to the tax system to enhance progress towards the elimination of inequities faced by women and to address provisions in the tax system that systemically discriminate against women.

### ***Tax Policy-Making Process***

In their analysis, working group members were hindered by the lack of information provided by governments on women and the tax system. As a result, they made the following recommendations on the tax policy making process:

- Any proposed changes to tax provisions should be analyzed for their impact by gender prior to implementation. Such analysis should be included in the budget in which these changes are introduced.
- Tax data by gender and by income level should regularly be made available to the public through inclusion in the publication *Taxation Statistics* produced by Revenue Canada.
- Tax policy should not be premised on the assumption of an equitable distribution of income within all families. The available research suggests that this assumption is not necessarily correct. At a minimum, the implications of policy decisions should be considered both for families in which incomes are pooled and for families in which incomes are not shared equitably.

### ***The Tax Unit***

One of the critical questions in considering the design of the income tax system is whose income should be used to determine how much tax should be paid. Different choices for the tax unit have an impact on the total tax liability of people living in families. The tax unit has an impact on eligibility for tax-delivered benefits. The tax unit is also important in discussions of tax fairness, and raises questions about the best measure of ability to pay.

Working group members considered alternative models for the tax unit. In Canada's modified individually-based system, the individual is the basic unit of taxation, while marital and family status are relevant in some provisions. Working group members concluded that the Canadian system is more conducive to furthering women's economic independence and autonomy than other models. They recommended the following reforms to current provisions that deviate from the individual as the tax unit:

- The definition of spouse should be changed to reflect family law obligations for support and to acknowledge a wider range of familial relationships. Same-



sex spousal relationships should be recognized for both tax and support obligation purposes.

- The current rules providing for a marital credit and the transfer of unused spousal credits should be reformed. These provisions are a disincentive to women's paid labour force participation, and they do not contribute to women's autonomy. In addition, because the marital credit is structured as a dependency credit, it does not acknowledge the value of women's unpaid labour in the home.

There were two options put forward by the working group on the nature of these reforms. Some members believe that the provisions should be eliminated. Other working group members believe the changes required to address gender inequities in this instance have to be weighed against the cost of eliminating these benefits to middle- and low-income families who are their major beneficiaries. As a result, these working group members believe the married credit and transferability of other credits to spouses should be maintained for horizontal equity reasons, but changes should be made to the delivery of these credits to better target the benefits. Therefore, they believe the value of these credits in reducing the tax payable by the spouse who claims them should be calculated separately, and delivered as a refundable credit to the spouse with the lower income.

- In principle, the benefit unit for tax-delivered assistance should be the same as the one for directly-delivered assistance. In most cases, for both these purposes, the benefit unit should be the individual, except when she or he is living with a spouse who is legally obligated to provide support.

#### ***Tax Treatment of Retirement Income and Savings for Retirement***

Opportunities for improving women's retirement income lie primarily outside the tax system, for example through improvement of the CPP benefit level, increases in cash transfer programs such as OAS, and improvement of the coverage of private pensions. Because of the importance of OAS to women's retirement income this program must be retained. The "clawback" threshold should be fully indexed to ensure that benefits are not eroded further.

The current system of tax-assisted savings for retirement results in systemic discrimination against women, as the benefits are disproportionately enjoyed by men. There were two views among working group members on the appropriate response to this discrimination. Some working group members believe that, in general, the current system has not effectively provided income security for retired Canadians. As a result, they believe public subsidies for private retirement savings (both RRSPs and pension plan based savings) delivered through the tax system should be redirected toward expanding and enriching the public retirement income security system (OAS, GIS and CPP).

Other working group members believe that tax-delivered assistance to retirement savings should be maintained because private savings for retirement are an impor-

tant component of an overall retirement savings policy. Women are less able to use these provisions both because of their low income levels and the fact that their labour force participation rates are lower than those of men. However, these working group members believe that the elimination of these deductions is neither practical nor desirable.

***Provisions that Interact with Caregiving Activities***

The working group made the following recommendations with respect to tax provisions that interact with caregiving activities:

***Child Tax Benefit***

A national, universal program should be implemented which recognizes both the reduced ability to pay and the social benefit provided by those raising children. The tax system should therefore provide public support to assist with the costs associated with raising children, and recognize the reduced ability to pay of parents compared to individuals and couples without children. Additional support should be provided to bring children out of poverty.

The non-refundable federal child tax credit, fully indexed to inflation, should be reintroduced and made refundable. The value of the new federal child tax benefit should be increased to reflect the non-discretionary costs of raising children, fully indexed to keep pace with inflation, and the income threshold above which the benefit is reduced should be raised. This benefit should be available to all low-income families, regardless of their sources of income.

***Child Care Expense Deduction***

A universally available, publicly-funded child care system is one of the requirements for economic independence for women. Some working group members believe this form of child care will not be a reality for women in the near future. Consequently, tax-delivered assistance should be redesigned to make it more equitable. Specifically, the current limited deduction for child care expenses should be converted to a refundable credit and increased to more realistically reflect the costs of child care. A minimum credit should be available for parents with no receipts. Other working group members believe public support for child care should not be delivered through the tax system. They believe that the current deduction should be eliminated and the resulting increase in tax revenues be used to help finance child care as a public program, like health or education.

***Tax Treatment of Support Payments***

Child support payments should not be deducted or included in the calculation of taxable income. This would treat child support costs in the same manner for tax purposes for custodial and non-custodial parents. It would also result in equal treatment of child support costs in families in which parents live together and in those in which parents are separated or divorced. For ease of tax administration, and to avoid the introduction of complex anti-avoidance measures, spousal support payments should be treated in the same manner. Transitional provisions should be established for agreements that were negotiated under the current provisions.

***Caregiving to Frail Elderly and Disabled Relatives***

The increasing reliance by policymakers on women's continued availability as unpaid caregivers in the home is an unrealistic and unsustainable policy direction. These caregiving activities should be acknowledged and adequately compensated. Because the tax system does not have the flexibility to address the variety of caregiving situations that arise, this financial support should be directly delivered. It should be delivered in a manner that allows those receiving care to maintain their independence and autonomy. As an acknowledgement of the reduced ability to pay of those with disabilities, the transferable disability credit and medical expenses credit should be maintained.

Until policies are put in place that adequately address the needs of both those receiving care and those providing care, the existing credits for frail elderly and disabled dependants receiving care should be increased to reflect the costs of caregiving and should be made refundable to the caregiver.

***Implementation of Recommendations***

Very few of these recommendations can be implemented by the Treasurer under the current tax collection agreements. Some of these recommendations, such as the child tax benefit provisions, could be implemented provincially as supplements to the federal benefits but would be more appropriately implemented at a national level.



# Women and Taxation Working Group

## REPORT

### INTRODUCTION

#### **Mandate of the Working Group**

The Women and Taxation Working Group is one of eight groups established by the Treasurer to answer specific questions regarding the fairness of the current tax system. The Treasurer's questions to this group were:

*Does the tax system discriminate against women?*

*What changes could be made to the tax system that could address discrimination and/or enhance progress towards the elimination of inequities faced by women?*

In addition, the commissioners of the Fair Tax Commission asked the working group to consider the following questions:

*What impact does the unit of taxation have on gender equity?*

*Are there conflicts between changes required to address gender inequities and income inequities in the tax system?*

*Given the existing federal/provincial tax collection agreements, what changes could Ontario make that would address the systemic bias against women in the tax system?*

*Assuming Ontario were in a position to control its own income tax system, what changes could Ontario make that would remove the adverse impact of the tax system on women?*

*What changes to the federal tax provisions could be proposed that would further enhance the Ontario tax reform recommendations?*

The working group focused its recommendations on the personal income tax system as it is the largest revenue source and has a number of provisions relevant to women. There were a number of aspects of these questions that members considered important but were unable to address, such as the impact of sales and property taxes on women, and the interaction of the social assistance and tax systems. Given women's lower incomes, the regressivity of sales and property taxes were of particular concern. The decision to exclude these questions resulted from time constraints and data limitations, and the knowledge that the Low Income Tax Relief Working

Group will be providing the Treasurer with advice on these issues. Limitations in the data concerning the impact of taxes on women living in families, combined with the difficulties associated with analyzing the distribution of consumption and income within families, imposed constraints on the working group's discussions of these issues.

### **The Process**

The Treasurer appointed the working group members in mid-September 1991 and asked them to report by the fall of 1992. They included tax professionals and academics, as well as members of the business community, women's movement, seniors' movement, gay and lesbian community, community service organizations, and the trade union movement. The Fair Tax Commission secretariat and representatives from various ministries in the Ontario public service provided support to the working group. Working group members were all volunteers who donated both their time and their expertise to the process. They decided on an informal consultation process, with individual members consulting their constituencies and bringing this information back to enrich the discussion.

Because the impact of the tax system on women is not part of traditional tax policy analysis, working group members had to develop their own approach. They did this by isolating aspects of the difference between men's and women's life experience they felt were essential to understanding the different impact of the tax system on both.

The ability of the Treasurer to act on working group recommendations has been a continuing concern of the members, given the provisions of current Federal-Provincial Tax Collection Agreements.<sup>1</sup> In response to provincial requests for greater flexibility, the federal government released a discussion paper on possible changes to the Agreements in 1991. Discussions between the federal and provincial governments are ongoing. Working group members hope their recommendations will assist the Treasurer in negotiations with respect to these agreements.

### **Framework for Analysis**

#### ***Impact of the Tax System on Women***

When attempting to answer the Treasurer's questions, working group members had to develop an analytical framework within which to approach the issues. An analysis of the impact of the tax system on women must look beyond the legal text and

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<sup>1</sup>. Currently, the federal government defines the types of income subject to tax, deductions from income, exemptions, and non-refundable credits, as well as tax brackets and indexation factors for all provinces with the exception of Quebec. The provincial taxes for these nine provinces are expressed as a percentage of basic federal tax and are collected for each province by the federal government. A provincial government can introduce changes to its general income tax rate. Surtaxes on its provincial tax, tax credits and tax reduction programs can be introduced only with prior federal approval.

begin with the socioeconomic context within which the statutes operate. The central feature of this context is that women enter into the tax system from a position of economic inequality.

The impact of the tax system on women can be measured by whether it increases this inequality, reflects this inequality, or reduces it. While the primary purpose of the tax system is to raise revenue and redistribute income, it is also used to encourage certain activities. Decisions about tax system design with respect to these three goals could, in principle, affect the economic inequality between men and women. In determining basic tax system design, there are choices to be made about features, such as the unit of taxation, which may have different impacts on men and women. In seeking to provide benefits or subsidies for particular groups or activities, there is a choice to be made between delivery through the tax system or through other mechanisms. Given women's lower incomes, the choice of delivery mechanism could have a different impact on women than on men.

#### ***Dimensions of the Economic Inequality of Women***

The average income of women in Ontario in 1990 was 58 per cent of men's: \$18,511 compared to an average income of \$31,678 for men. Approximately 63 per cent of women had incomes of less than \$20,000 while 35 per cent of men had incomes of less than \$20,000. Only four per cent of women had incomes over \$50,000 while 17 per cent of men had incomes over \$50,000.<sup>2</sup> This income disparity continues into retirement, as the average income of unattached women over 65 was \$18,668 compared to \$24,124 for men over 65.<sup>3</sup> Women's lower incomes affect their standard of living as unattached individuals, in retirement, as contributors to joint incomes when living with men, and their families' standard of living when they are single parents or in lesbian relationships.

Women's earnings in Ontario in 1990, as distinct from income, were also 58 per cent of men's: \$18,149 compared to an average of \$31,176 for men.<sup>4</sup> Earnings of women working full-time, full-year averaged \$25,941 as compared to an average of \$39,325 for men. In husband-wife families, husbands' earnings averaged \$38,669 and wives' earnings averaged \$19,810. Women who were heads of "other" families<sup>5</sup> (the majority of which are single-parent families) had earnings that averaged \$19,797. "Other" families with male heads had average earnings of \$33,104.<sup>6</sup>

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2. Statistics Canada, *Income Distributions by Size in Canada* (Ottawa, 1991), p. 111.

3. Statistics Canada, *Survey of Consumer Finances* (Ottawa, 1991), unpublished data.

4. Statistics Canada, *Earnings of Men and Women* (Ottawa, 1991), p. 29. Earnings are a subcategory of income as they include employment income only, whereas the income figure above also includes investment income, transfer payments and other money income.

5. The *Survey of Consumer Finances* publishes data on members of husband-wife families, members of all other families, and unattached individuals. As a result, the publication does not adequately describe the range of families living in Ontario and contributes to the invisibility of gay and lesbian families.

6. Statistics Canada, *Survey of Consumer Finances* (Ottawa, 1991), unpublished data.

Women also have higher poverty rates than men. While 14 per cent of all families were poor in Ontario in 1989, there were differences by the gender of the head of the household.<sup>7</sup> While 8.5 per cent of male-headed households were poor, 32 per cent of female-headed households were poor. In 1990, 40 per cent of Ontario women aged 65 and over who live alone, as compared to 22 per cent of men, had incomes below the poverty line.<sup>8</sup>

***Caregiving, Unpaid Work, and Economic Inequality***

Women's primary responsibility for caregiving in the family, and the fact that this type of work is both unpaid and invisible in the economy, is a major contributor to this economic inequality. The gender division of all unpaid household labour can be illustrated by recent Statistics Canada estimates of the value of household work. It is estimated that unpaid household work in Ontario had a value equivalent to between 29 and 36 per cent of gross domestic product in 1986.<sup>9</sup> On a national basis, women contributed 68 per cent of the hours of household work.

Women's increased participation in the paid labour force over the past two decades has resulted in the "double workday" whereby, despite their paid labour, women continue to be responsible for a disproportionate share of unpaid household work. Research shows that when wives hold jobs outside the home, their combined workload is significantly greater than that of their husbands.<sup>10</sup> Despite the fact that women's hours of paid employment are not as high as men's, the combination of work in the home and work in the labour force produces a longer total work week for women.

The unequal distribution and undervaluation of unpaid household work has contributed to the segregation of women in low-wage, part-time and insecure jobs. Women represent 46 per cent of workers in all occupations but they are disproportionately represented in lower-paying clerical (80 per cent), sales (48 per cent) and service jobs (55 per cent).<sup>11</sup> However, these broad occupational groupings mask considerable segregation within each group. In teaching, women occupy the lower-paying elementary school positions, not the higher-paying principal jobs; and in medicine and health, they tend to be nurses, not doctors. The segregation of women into jobs that resemble unpaid domestic labour (cleaning, nurturing, teaching,

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7. Compiled by Fair Tax Commission Secretariat, using Statistics Canada, *Survey of Consumer Finances* (Ottawa, 1990), unpublished data.

8. Statistics Canada, *Survey of Consumer Finances*, (Ottawa, 1991), unpublished data.

9. Chris Jackson, "The Value of Household Work in Canada, 1986," *Canadian Economic Observer* (June 1992), p. 3.2.

10. Francine Blaus and Marianne Ferber, *The Economics of Women, Men and Work* (Englewood Cliffs: Prentice Hall, 1986) and Statistics Canada, *Women in Canada: A Statistical Report* (Ottawa, 1985) quoted in Morley Gunderson and Leon Muszynski, *Women and Labour Market Poverty* (Ottawa: Canadian Advisory Council on the Status of Women, 1990), p. 25.

11. Statistics Canada, *Labour Force Survey* (Ottawa: 1992), unpublished data.



health care) contributes to the undervaluation of women's work.<sup>12</sup>

Only 25 per cent of employed women in Ontario worked part-time in 1991.<sup>13</sup> However, women workers accounted for 70 per cent of total part-time employment in Ontario that year. Over 40 per cent of part-time women workers were between 25 and 44 years of age—the prime employment years. In comparison, only 15 per cent of male part-time workers were in this age group. This disparity in part-time employment rates illustrates the constraints on women's labour market activities that result from unpaid caregiving activities. Furthermore, job turnover rates are higher for women than for men. While the average job tenure was nine years for men in Ontario in 1991, it was six years for women.<sup>14</sup>

#### ***Relationship of the Tax System to Caregiving***

Working group members believe that women's primary responsibility for the young, the sick, and the frail elderly is a critical factor in measuring the impact of the tax system on women as compared to men. Women's disproportionate share of this form of unpaid household work increases the importance for women of the interaction of this work with the tax system. In particular, it raises questions about the design of the provisions in the tax system that recognize unpaid work, the tax treatment of unpaid work, the impact of unpaid work on the design of subsidies for retirement savings, and the recognition of the unequal division of unpaid work between custodial and non-custodial parents in the tax treatment of these payments.

#### ***Evaluating the Impact of the Tax System on Women***

When considering how they would evaluate and subsequently make recommendations on reforming the tax system, working group members began with two goals.

- The first goal was to enhance women's economic independence. A requirement for economic independence, for the vast majority of women, is paid employment and sufficient income in retirement.
- The second goal was to recognize women's autonomy. A requirement for recognition of women's autonomy is that the provisions in the tax system treat women as individuals, distinct from their familial relationships and, in particular, from their male partners.

In addition, the question of the appropriate delivery mechanism is particularly important with respect to the unpaid aspects of women's work because the tax system is designed for monetary transactions. The traditional tax policy criteria of vertical and horizontal equity were also of importance in working group members' evaluation of various options.<sup>15</sup>

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12. Morley Gunderson and Leon Muszynski, *Women and Labour Market Poverty*, p. 93.

13. Statistics Canada, *Labour Force Annual Averages*, p. B-46.

14. Statistics Canada, *Labour Force Annual Averages*, p. B-57.

15. Horizontal equity requires that taxpayers in similar circumstances bear similar taxes; vertical equity requires that taxpayers in different circumstances bear appropriately different taxes. For

In the working group's analysis, the goal of women's autonomy required consideration of the impact of tax measures on women within families. This goal raised a number of difficult analytical issues which are discussed in the section on the choice of tax unit. One of the biggest obstacles the group faced was the lack of literature on how income from paid employment is shared by spouses. Because of this, it is difficult to determine whether or not it is appropriate to base policy on assumptions of equitable distribution within families.

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example, vertical equity requires that taxpayers with higher incomes pay a higher rate of tax; horizontal equity requires that the ability to pay of taxpayers be taken into account.

## CHOICE OF THE TAX UNIT

One of the critical questions in considering the design of the income tax system is whose income should be used to determine how much tax should be paid. Different choices for the tax unit have an impact on the total tax liability of people living in families. The tax unit has an impact on eligibility for tax-delivered benefits. The tax unit is also important in discussions of tax fairness, and raises questions about the best measure of ability to pay. These and other questions about the choice of tax unit have been the focus of attention of both feminist scholars and traditional tax policy analysts in their consideration of the taxation of women.<sup>16</sup>

### Income Pooling within Households

In order to determine the impact of various tax measures on women's autonomy, the working group required information on the distribution of income and consumption within families. The study of these intra-family distributions has been very limited. The available evidence suggests there is a complex process of resource allocation within families resulting in a variety of arrangements. It confirms that not all women in couple relationships have complete access to, or equal control over, the income of the other spouse. As a result, the assumption that all income is pooled is misleading.<sup>17</sup> This is particularly true in families where wife assault occurs.<sup>18</sup> In such families, the forms of economic abuse that occur include: forcing the wife to ask for money, giving the wife an allowance, taking the wife's money away, and not letting the wife know about, or have access to, family income.<sup>19</sup>

Traditional tax policy analysis has been based on the assumption that income is pooled in the household. It is a major deviation from accepted social policy norms to consider the individual rather than the family as the unit of analysis (as distinguished from the tax unit). There are several reasons for continuing to use the household unit. There are difficulties associated with trying to analyze intra-family

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16. See: Canada, *Report of the Royal Commission on Taxation* (Ottawa: Queen's Printer, 1966); Kathleen Lahey, "The Tax Unit in Income Tax Theory," in *Women, the Law and the Economy*, ed. E. Diane Pask et al. (Toronto: Butterworths, 1985); Maureen Maloney, "Women and the Income Tax Act: Marriage, Motherhood and Divorce," *Canadian Journal of Women and the Law* 3, 1 (1989); Douglas G. Hartle, *Taxation of the Incomes of Married Women*, Studies of the Royal Commission on the Status of Women in Canada (Ottawa: Information Canada, 1971); and Jack London, *Tax and the Family* (Ottawa: Law Reform Commission of Canada, 1975).

17. Frances Woolley, "Women and Taxation: A Survey" (Working paper prepared for the Women and Taxation Working Group, September 1991), p. 21.

18. In a recent study, one in five Canadian men living with a woman admitted to using violence against his partner. See Eugen Lupri, "Male Violence in the Home," *Canadian Social Trends* (Autumn 1989), p. 20.

19. *Fact Sheet*, distributed by Education Wife Assault, 427 Bloor St. W., Toronto, no date.

resource allocations. In families where income is pooled, using the individual as the unit of analysis is an inappropriate measure of the well-being of the members of the family. In these families, the income of other household members is essential as a meaningful measurement of ability-to-pay of the women living within them. As a result, using the individual as the unit for tax-delivered benefits could result in policy decisions which promote women's autonomy at the expense of vertical equity among families.

### **RECOMMENDATION**

*Policy should not be premised on the assumption of an equitable distribution of income within all families. The available research suggests that this assumption is not necessarily correct. At a minimum, the implications of policy decisions should be considered both for families in which incomes are pooled and for families in which incomes are not shared equitably.*

### **Alternative Models**

Working group members considered alternative models for the tax unit. The United States and the United Kingdom use the married couple as the tax unit. Canada uses a modified individually-based system.<sup>20</sup> While the individual is the basic unit of taxation, marital and family status are relevant in some provisions. At various times, it has been suggested that the married couple be the unit of taxation in Canada.<sup>21</sup>

#### ***Married Couples as the Unit of Taxation***

There are two basic methods by which the married couple can be used as the unit of taxation. In the first method (the U.K. system) the income of a couple is aggregated to determine their collective ability to pay. Two Canadian studies that have advocated joint taxation suggested a rate schedule which taxes single-earner married couples more heavily than two single individuals each earning half the couple's income. The net result under such a system is that the couple ends up paying more tax together than they would have paid had they been taxed as individuals. This system provides a means of recognizing the economies of living together when determining ability to pay taxes.<sup>22</sup> Canadian policy makers have rejected this approach as unfair, particularly for low-income couples.<sup>23</sup>

20. Kathleen Lahey, "The 'Tax Unit' Debate: Basic Structural Choices" (Working paper prepared for the Women and Taxation Working Group, February 1992), p. 3.

21. See: Canada, *Report of the Royal Commission on Taxation*, p. 280; Douglas Hartle, *The Taxation of Married Women*, p. 87.

22. Jack London, *Tax and the Family* and Douglas Hartle, *The Taxation of Married Women* quoted in Frances Woolley, "Women and Taxation," p. 11.

23. Canada, *White Paper on Taxation* (Ottawa: Queen's Printer, 1969) quoted in Frances Woolley, "Women and Taxation," p. 12.

The second method of taxing marital income (the U.S. system) is to aggregate the joint incomes and then split them equally between the two people. If a single progressive rate schedule is applied to both married couples and single individuals, this second method is preferential to couples. The advantage grows in direct proportion to the disparity in incomes between the two people. It is most advantageous to a high income earner who lives with a non-income earner.<sup>24</sup>

### ***Evaluation***

Married couples have been advocated as the unit of taxation for equity reasons. It has been argued that the appropriate measure of ability-to-pay for family members is total family income.<sup>25</sup> Differences in the distribution of spousal income in a marriage should not result in variations in the tax payments of married couples with the same total income. It has also been argued that the economies of scale that result in reduced costs for couples as compared to single individuals should be considered in determining tax payable.

Alternative family structures are on the increase. Even if the concept of the marital unit were expanded to include same and opposite sex common-law couples as the unit for tax purposes, the concept of a couple as a life-long economic unit with joint income, wealth, and expenses may no longer be appropriate given changing family structures, increasing divorce rates, and falling marriage rates.<sup>26</sup>

Regardless of the definition of spouse, using the couple as the tax unit is in conflict with the goal of women's autonomy: the use of the couple for the tax unit does not recognize women as distinct from their relationships with others. Historically, in other countries, the filing of joint tax returns for husbands and wives was necessary because women were legally incapable of acting for themselves.<sup>27</sup>

Horizontal equity arguments for using the couple as the tax unit are based on the assumption that income is pooled in all families. As outlined above, the evidence suggests that this is not always the case. Moving to the couple as the tax unit also results in a loss of privacy as disclosure of income between spouses is required. Working group members believe that an income-splitting model could result in either too much of a tax incentive for women in couple families to engage exclusively in unpaid labour, or, in a tax penalty on women who engage in both paid and unpaid work. An income-splitting model, like the U.S. system, also puts single parent families at a disadvantage, unless one of the children is treated as a spousal equivalent.

### ***Individual and Dependents as the Unit of Taxation***

Another model defining the tax unit as an individual earner plus his or her depen-

<sup>24</sup>. Maureen Maloney, "The Appropriate Tax Unit" (Draft paper prepared for the Fair Tax Commission, May 1992) p. 9.

<sup>25</sup>. Canada, *Royal Commission on Taxation* quoted in Frances Woolley, "Women and Taxation," p. 7.

<sup>26</sup>. Maureen Maloney, "The Appropriate Tax Unit," p. 10.

<sup>27</sup>. Maureen Maloney, "Women and the Income Tax Act," p. 187.

dants has been suggested by Julie Nelson, an economist at the University of California.<sup>28</sup> In this model, the earner receives a tax credit for each dependant. Dependants would be defined as persons who are unable to support themselves for reasons such as youth, advanced old age, or chronic disability and who therefore rely on the earner for economic support. She also argues that an extra credit should be given to parents during the first year of a child's life.

### **Evaluation**

The arguments for this definition of the tax unit are as follows. The productive capacity of able-bodied adults is recognized as they are never considered dependants. There are no differences in tax payable for adults on the basis of their living arrangements. The tax unit does not discriminate between married and same or opposite sex couples. More importantly, for some working group members, it does not discriminate between adults who choose different divisions of paid and unpaid labour in their households. If a couple chooses to have one partner engage exclusively in domestic labour and the other partner exclusively in paid labour, they do not receive a tax subsidy unavailable to a couple in which both partners engage in paid labour.

The extra credit for children under one year of age targets the support of families with infants more effectively than a marital credit for all spouses who do not work outside the home, regardless of whether they have children. This extra credit would be available to parents whether or not they engage in paid labour. Thus, this model is neutral with respect to parents' work and child care arrangements. Single parents would pay less than the single person without dependants. Single parents would pay less than a one-earner couple, which is equitable when the unpaid labour of the spouse at home is taken into account. This model could not, however, address some working group members' concerns about the impact on ability to pay of having a spouse who does not engage in paid labour. Because the socially-beneficial work of spouses who work exclusively in the home is not compensated, and the value of personally-beneficial work is not monetary, some working group members believe that tax recognition of the reduced ability to pay of one-earner couples should be retained.

### **RECOMMENDATION**

*The current Canadian modified-individual tax unit is more conducive to furthering women's economic independence and autonomy than other tax unit models and therefore should be retained.*

### **Current Canadian System**

While the the individual is the basic unit of taxation in Canada, marital and family

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<sup>28</sup>. Julie A. Nelson, "Tax Reform and Feminist Theory in the United States Context: Incorporating Human Connection" (Paper prepared for the Conference "Emancipatory Economics and Tax Reform," University of Limburg, Maastricht, The Netherlands, February 22, 1991).

status are relevant in some provisions. The tax provisions which take into account family or marital status can be classified into three categories:

- First, there are provisions which are designed to preserve the principle of using the individual as the tax unit and, as a result, protect the system from some tax avoidance activities;
- Second, there are provisions which are designed to reduce tax liabilities of couple families. These provisions allow the high-earner spouse various credits (such as the married credit), and allow for the transfer of unused tax credits (such as the education amount); and
- Third, there are provisions which are designed to limit or reduce the tax-delivered or directly delivered benefits that families can claim.<sup>29</sup>

These categories of provisions are discussed below. However, the working group's analysis of the appropriate definition of spouse for the purposes of these provisions is reviewed first.

#### **Definition of Spouse**

As a basic principle, working group members believe that spousal relationships should be recognized through self-identification and be based on economic mutuality or dependency. Some working group members believe that recognition should be based solely on economic mutuality, which would provide recognition to those individuals who form economic/familial relationships that are not conjugal. This could, for example, include siblings who lived together. Such a definition would affirm that "the state does not belong in the bedrooms of the nation." It would therefore ensure the right to privacy with respect to the conjugal relationships of taxpayers.

Working group members identified two constraints on the principles of economic mutuality and self-identification. The first was that provisions in the *Income Tax Act* should not conflict with other relevant statutes. In particular, the *Act* should reflect legal obligations for support as provided for in family law. An example of conflict between statutes is the proposed federal recognition of common-law opposite sex couples for tax purposes following one year of cohabitation.<sup>30</sup> In contrast, responsibilities for support under Ontario family law require three years of cohabitation in a conjugal relationship.<sup>31</sup>

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<sup>29</sup>. Kathleen Lahey, "The 'Tax Unit' Debate," p. 16.

<sup>30</sup>. Canada, Department of Finance, *Budget Papers, Supplementary Information and Notice of Ways and Means Motions on the Budget*, February 25, 1992 (hereinafter referred to as "The 1992 Federal Budget") p. 139.

<sup>31</sup>. *Ontario Family Law Act*, Sections 29(a), 30.

The second constraint on self-identified spousal relationships is that this definition provides opportunities for tax avoidance. Recognition of same and opposite sex common-law relationships results in both increased burdens and benefits. While recognition of these relationships would allow the use of provisions that reduce tax payable due to dependency relationships, it would also require the application of anti-avoidance and benefit-reducing provisions. As a result, situations could arise where it would be beneficial for couples to vary their status depending on the tax consequences in a particular year. Measures to minimize these possibilities would have to be developed.

For tax administration purposes, it is preferable to impose tax consequences based on legally imposed obligations which can be independently verified. Opportunities for avoidance are enhanced when tax deductions depend on subjective decisions and personal choices. Administration of the income tax system would be complicated by issues of proper verification and invasion of privacy. A marriage certificate can readily be produced, changes to marital status verified, and the nature and extent of support obligations determined, based on family law. Common law support obligations are not as readily verified and they currently do not exist in law between same-sex couples.

#### **RECOMMENDATION**

*The definition of spouse should be modified to reflect family law obligations for support and to acknowledge a wider range of familial relationships. Same-sex spousal relationships should be recognized for both tax and support obligation purposes.*

#### **Individual as the Tax Unit**

In the Canadian tax system, the individual is the taxpayer and must calculate income from all sources, determine tax liability and file an individual tax return; no joint filing is permitted. However, family relationships and shared economic interests provide a vehicle for tax reduction strategies. Splitting or shifting of income or capital usually requires another person or "tax unit." Many tax planning techniques to defer or minimize tax depend on the splitting and shifting of income, capital and other items (losses, tax credits, refunds, costs) to other persons who are often members of the taxpayer's immediate family.<sup>32</sup>

To limit the use of family or "non-arm's length" relationships to minimize the tax burden, a number of anti-avoidance provisions have been developed. Special rules in the *Income Tax Act*<sup>33</sup> apply to transactions between family members in order to preserve the individual as the unit of taxation and maintain the integrity of the tax

<sup>32</sup>. Edwin Kroft, "Splitting and Shifting Tax Benefits: A Guide for the Perplexed Practitioner," Report of Proceedings of the Fortieth Tax Conference, 1988 Conference Report (Toronto: Canadian Tax Foundation, 1989), 32:1-94, p.1.

<sup>33</sup>. R.S.C. 1952 c. 148, as amended by SC 1970-71-72 c.63, and as subsequently amended. Unless otherwise stated, statutory references in this Report are to this Act.



base and progressivity. Among others, these include: provisions governing "non-arm's length" transfers,<sup>34</sup> provisions aimed at preventing the diversion of income for tax purposes,<sup>35</sup> attribution rules,<sup>36</sup> and the general anti-avoidance rule.<sup>37</sup>

Working group members did not consider these provisions in detail as they are aimed at anti-avoidance. However, they recognize their value in preserving the individual as the unit of taxation.

#### ***Tax Reducing Provisions for Couples***

Provisions that recognize married couples and result in a reduction of tax liability include: the married credit; the ability to transfer unused age, pension, tuition, education and disability credits; the ability to transfer dividend income from Canadian corporations; spousal rollovers of capital property during lifetime or on death; and the provisions with respect to spousal RRSPs and the treatment of RRSPs on death. Recent federal tax reforms will result in opposite sex common-law couples being eligible for all of these provisions in 1993.<sup>38</sup>

#### ***Married Credit***

This non-refundable credit is available to individuals in recognition of the support given to a low-income spouse. The maximum federal credit for 1992 is \$915. The credit is reduced if the spouse's income exceeds \$539.<sup>39</sup>

#### ***Transfer of Unused Credits to Spouse***

The lower-income spouse is allowed to transfer unused non-refundable credits to the higher-income spouse. These credits include: the age amount (for a spouse who has reached the age of 65), the pension income amount, the disability amount, and the tuition fees and education amounts.<sup>40</sup>

#### ***Transfer of Dividend Income to Spouse***

Dividend income from taxable Canadian corporations can be transferred to the higher-income spouse if, as a result of this transfer, the higher-income taxpayer can increase his or her claim for the married credit.<sup>41</sup> The dividends so transferred are taxed in the hands of the higher-income spouse who can then claim the related dividend tax credit.

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34. Paragraphs 69(1)(a), 69(1)(b).

35. Subsections 56(2), 56(4).

36. Sections 74.1-74.5 and subsections 56(4.1)-56(4.3).

37. Subsection 245(2).

38. *The 1992 Federal Budget*. The definition of spouse proposed in the Budget is drawn from the expanded definition of spouse in subsection 146(1.1). This expanded definition is currently applicable to many RRSP rules with the notable exception of those governing spousal contributions.

39. Paragraph 118(1)(a).

40. Section 118.8.

41. Subsection 82(3).

### *Rollovers of Capital Property*

Capital property can be transferred to a spouse or a spousal trust without immediate tax consequences.<sup>42</sup>

### *Rollover of Pension Payments to Spousal RRSP*

This provision allows for a deduction of up to \$6,000 for periodic RPPs or DPSPs to be transferred to a spousal RRSP (until 1994). This amount is over and above the normal contribution limit allowed to the individual.<sup>43</sup>

### *Contribution to Spousal RRSP*

This provision allows one spouse a deduction for contributing to the other's RRSP. Total contributions to the spousal RRSP and the individual's RRSP cannot exceed the individual's maximum contribution limit.<sup>44</sup>

### *Treatment of RRSPs on Death*

RRSPs left to a spouse can be transferred to the spouse's RRSP without tax consequences.<sup>45</sup>

### ***Policy Issues***

Data were available on the marital credits and the transfer of spousal credits for 1988.<sup>46</sup> The available data on the marital credit included both the married and equivalent-to-married credits.<sup>47</sup> The married credit was claimed by 11 per cent of all taxfilers in Ontario. While two per cent of all female taxfilers claimed this credit, 19 per cent of all male taxfilers claimed it. The marital credits provided about \$580 million of tax relief in Ontario; 94 per cent of this amount was claimed by male taxfilers.<sup>48</sup> Thirty per cent of the total amount of tax relief provided to male taxfilers went to those with incomes below \$30,000. Two per cent of all taxfilers benefitted from claiming credits transferred from their spouses in 1988. The transfer of spousal credits provided about \$70 million of tax relief to Ontarians. Sixty-four per cent of the total amount of the tax relief that was provided to male taxfilers went to those with incomes below \$30,000.

Concerns about the impact of these credits on women's labour force participation must be tempered by the fact that married women's labour force participation rates

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<sup>42</sup>. Subsections 73(1), 70(6).

<sup>43</sup>. Paragraph 60(j.2).

<sup>44</sup>. Subsection 146(5.1).

<sup>45</sup>. Paragraph 60(l).

<sup>46</sup>. Estimates by Fair Tax Commission secretariat using Revenue Canada, *Taxation Statistics* (Ottawa: 1990), unpublished microdata.

<sup>47</sup>. The equivalent-to-married credit is available, in some circumstances, to taxfilers with dependants. This credit is frequently used by single parents. Since the majority of single parents are women, it is likely that the inclusion of equivalent-to-married credits in the data leads to more of an overestimate of the number of women claiming the marital credit than of the number of men claiming it.

have been increasing over the past 20 years because of a number of economic and social factors. Their participation rate in Ontario in 1991 was 64 per cent.<sup>49</sup> While the participation rate of married women over 45 was 42 per cent, the participation rate for those between 24 and 44 was 75 per cent.<sup>50</sup>

The question confronting working group members was: Do the married credit and the transfer of spousal credits result in a disincentive to women's labour force participation? The conclusion of most studies of women's labour force participation rates is that married women's work decisions are more sensitive to wage rates than are married men's. Therefore, women's work decisions are more easily distorted by taxes which change the after-tax wage rates.<sup>51</sup> In families where income is shared in some manner, these credits result in a disincentive for women to engage in paid labour. Working group members also believe that these credits reveal a governmental preference for women to work exclusively in the home by subsidizing unpaid work as compared to paid work.

### **RECOMMENDATION**

*The current rules providing for a marital credit and the transfer of unused spousal credits should be reformed. These provisions are a disincentive to women's paid labour force participation, and they do not contribute to women's autonomy. In addition, because the marital credit is structured as a dependency credit, it does not acknowledge the value of women's unpaid labour in the home.*

*There were two options put forward by the working group on the nature of these reforms. Some members believe that the provisions should be eliminated. Other working group members believe the changes required to address gender inequities in this instance have to be weighed against the cost of eliminating these benefits to middle- and low-income families who are their major beneficiaries. As a result, these working group members believe the married credit and transferability of other credits to spouses should be maintained for horizontal equity reasons, but changes should be made to the delivery of these credits to better target the benefits. Therefore, they believe the value of these credits in reducing the tax payable by the spouse who claims them should be calculated separately, and delivered as a refundable credit to the spouse with the lower income.*

### **Tax Increasing/Benefit Reducing Provisions**

These provisions either increase the tax liability of or decrease benefits to individuals. The provisions affecting child care expense deductions and family allowances increase family tax liability by determining who must claim them. The capital gains exemption for principal residences increases the possible tax liability of spouses by

48. This included the reduction in both federal and Ontario tax payable.

49. Statistics Canada, *Labour Force Survey*, p. B-24.

50. Statistics Canada, *Labour Force Survey*, unpublished data.

51. Frances Woolley, "Women and Taxation," p. 22.

allowing only one such deduction per couple. Provisions which increase tax liability are not considered in detail, as the child care expense deduction is considered elsewhere in the report and the federal government has proposed the elimination of family allowances. Other provisions, described below, reduce the availability of tax-delivered benefits by determining eligibility through an income measure that includes the taxpayer's income as well as the income of the spouse and/or "other supporting persons."

### *Eligibility for Refundable Credits*

These include the federal refundable child tax credit,<sup>52</sup> the goods and services tax (GST) credit,<sup>53</sup> the Ontario sales and property tax credit and the Ontario tax credits for seniors. Eligibility for these credits is based on an income measure which includes the taxfiler's income, the income of the taxfiler's spouse, and the income of an 'other supporting person.'<sup>54</sup> While the child tax credit is usually delivered to the mother, the value of the other credits for both the taxfiler and the spouse (and any dependent children) is delivered jointly to only one spouse.

### *Child Care Expense Deduction*

This deduction is available only to the lower income spouse except in certain limited circumstances.<sup>55</sup>

### *Family Allowance*

In couple families, the spouse with the higher income must report family allowance payments. These payments are then subject to a "clawback." The amount of the "clawback" in 1992 is equal to 15 per cent of the taxpayer's 1992 income above \$53,214, up to the limit of the total benefits received.<sup>56</sup>

### ***Policy Issues***

The criterion of women's autonomy would suggest that the individual be designated the benefit unit. As a result, some working group members believe the individual should be the unit for tax-delivered assistance. Currently, the taxfiler's income, the spouse's income and the income of "other supporting persons" are aggregated to determine eligibility on a family basis. However, others were concerned about maintaining the integrity of these programs as well as the cost implications of using individual income as the benefit determinant. Estimates of the cost of using individual income as the determinant for eligibility for the sales tax credit portion of the Ontario property and sales tax credit were produced. This was done by estimating the cost of providing the \$100 credit for adults using the current threshold and re-

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<sup>52</sup>. Section 122.2

<sup>53</sup>. Section 122.5

<sup>54</sup>. Other supporting persons include: a common-law spouse with whom the taxfiler is residing and who is the parent of the taxfiler's child; and, any person (other than the taxfiler's spouse) who claimed a personal amount for a child of the taxfiler.

<sup>55</sup>. Section 63.

duction rate. These estimates suggest that the cost of this aspect of the program would triple from \$46 million in 1991 to \$142 million.<sup>57</sup>

Working group members view tax-delivered benefits as tax expenditures aimed at alleviating poverty which are essentially no different from direct subsidies such as social assistance. Therefore, most working group members believe the benefit unit should be the same as that for directly delivered assistance. They support the direction for the definition of the benefit unit developed by the Advisory Group on New Social Assistance Legislation: "In principle, all adult persons should be treated as individuals except where they are living with a spouse who is legally obligated to support them. However, in this latter instance, the system should treat applicants as individuals when there is hardship."<sup>58</sup> Unlike the tax system, the social assistance system is more flexible in that eligibility for benefits can be varied for circumstances such as hardship.

### **RECOMMENDATION**

*In principle, the benefit unit for tax-delivered assistance should be the same as the one for directly-delivered assistance. In most cases, for both these purposes, the benefit unit should be the individual, except when she or he is living with a spouse who is legally obligated to provide support.*

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56. Subsections 56(5)-(7); Section 180.2.

57. Estimates produced by the Fair Tax Commission using the Social Policy Simulation Database Model.

58. Advisory Group on New Social Assistance Legislation, *Time for Action Towards a New Social Assistance System in Ontario* (Toronto: Queen's Printer for Ontario, 1992), p. 54.

## **TAX TREATMENT OF RETIREMENT INCOME AND SAVINGS FOR RETIREMENT**

### **Background**

In 1990, 40 per cent of Ontario women aged 65 and over who live alone, as compared to 22 per cent of men, had incomes below the poverty line.<sup>59</sup> The higher poverty rate of these women results from their concentration in industries and occupations which have low wages and benefits, as well as their historically lower labour force participation rates. Private pension benefit coverage is limited in low-wage industries and occupations and their value is dependent on continuous employment over an extended period of time.

Women who are traditional homemakers and do not participate in the paid workforce cannot contribute to either CPP or private pension plans. Women who interrupt their paid labour force participation for more than seven years in order to raise their children experience reductions in CPP benefits and interruptions in their private pension plan contributions.

Women in the paid labour force receive, on average, lower wages than their male counterparts. These lower earnings result in lower CPP contributions and lower pension plan benefits for women than for men. In addition, fewer women in the paid workforce are covered by private pension plans than men. In 1989 in Ontario, 37 per cent of women, compared with 51 per cent of men in the paid workforce, were members of private pension plans.<sup>60</sup> Finally, women's lower earnings result in less discretionary income to put towards private savings for retirement.

The combination of these factors results in elderly women relying more heavily than elderly men on government cash transfer programs—Old Age Security (OAS) and Guaranteed Income Supplement (GIS)—in retirement. Women aged 65 and over received 45 per cent of their income from OAS and GIS compared with 36 per cent for men in Ontario in 1990.<sup>61</sup>

### **Current Tax Treatment**

#### **OAS "Clawback"**

Since 1989, all or part of OAS payments have been recovered from higher income seniors.<sup>62</sup> The amount of the repayment in 1992 is equal to 15 per cent of the taxpayer's 1992 income above \$53,214, up to the limit of the total benefits received.

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59. Statistics Canada, *Survey of Consumer Finances* (Ottawa, 1991), unpublished data.

60. Statistics Canada, *Pension Plans in Canada* (Ottawa, 1991).

61. Statistics Canada, *Survey of Consumer Finances*, unpublished data.

62. Section 180.2.

### *Tax Assistance to Private Savings*

Tax assistance to private savings for retirement is available through registered retirement savings plans (RRSPs), registered pension plans (RPPs), and deferred profit sharing plans (DPSPs). These plans are subject to similar tax treatment: contributions are deductible from income, investment earnings on plan funds are not taxed as they accrue, and benefits payments or other withdrawals are fully subject to tax.

Taxpayers are currently allowed to claim a deduction for contributions to RRSPs<sup>63</sup> and RPPs.<sup>64</sup> In addition, contributions by employers to RPPs and DPSPs are not considered to be taxable benefits and are therefore tax free to the employee.<sup>65</sup> The rules for RPPs, DPSPs and RRSPs are integrated and contributions are tax deductible. These plans are subject to a specified annual limit. For 1992, the maximum amount deductible for contributions to an RRSP is generally the lesser of 18 per cent of earned income in 1991 or \$12,500 minus her or his pension adjustment.<sup>66</sup>

### *Credit for CPP Contributions and Pension Income*

Taxpayers receive a non-refundable federal credit at 17 per cent for contributions to the Canada Pension Plan.<sup>67</sup> The first \$1,000 of pension income (excluding CPP, OAS, and GIS) is eligible for a non-refundable credit of 17 per cent.<sup>68</sup> Unused pension income credits are eligible for transfer to a higher-income spouse.

### *Provisions for Married Taxpayers*

Taxpayers may use part of their RRSP contribution limit to contribute to a spousal RRSP. In addition, married taxpayers may also roll over up to \$6,000 per year of pension income to spousal RRSPs. CPP benefits can be split between spouses for tax purposes.<sup>69</sup>

## **Retirement Savings Policy Issues**

Recent changes in the treatment of tax assistance for retirement savings were designed to establish an equitable basis for limiting the total of such assistance. In particular, they were designed to increase the tax assistance available for private retirement savings to levels comparable to those available for pension-based

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63. Paragraph 60(i).

64. Paragraph 8(1)(m).

65. Subparagraph 6(1)(a)(i).

66. Paragraph 146(1)(g.1). A taxpayer's pension adjustment is calculated by his or her employer and reported on his or her T4 for the previous year. The pension adjustment is the sum of the following amounts for the previous year: employer DPSP contributions, employer and employee contributions to a money purchase RPP and the estimated value of defined benefit RPP entitlements accrued during the year.

67. Section 118.7.

68. Subsection 118(3).

69. Section 64.1 of the *Canada Pension Plan* and Subsections 56(2) and (4) of the *Income Tax Act*.

retirement savings and to ensure that the total tax assistance available is independent of the form in which it is delivered. Prior to these changes, limits for tax-assisted pension saving were more generous than for private retirement saving. In addition, the impact of pension plan membership on RRSP contribution eligibility was independent of the quality of the pension plan and therefore of the value of plan membership to the taxpayer.

This reform effectively made the tax treatment of private retirement savings fully equivalent to that of pension-based savings, thereby reversing a long-standing policy that viewed the private pension system as the principal supplement to public pensions in providing for retirement income security. This was seen as an appropriate response to changing demographic and employment patterns.<sup>70</sup>

Individuals who are not members of RPPs or contributors to RRSPs cannot save for retirement on a tax-assisted basis. However, the non-refundable credit for CPP contributions results in a tax subsidy, although a smaller one, for all paid workers covered by the plan. Maximum contributions to the CPP, and therefore maximum tax assistance through the non-refundable credit, are geared to the level of average wages and salaries. In comparison, in 1996 when changes to the RRSP provisions are fully phased in, the maximum level of covered earnings for full tax assistance is expected to be about 2.5 times the average wage.<sup>71</sup>

Because savings rise with income levels, men receive the majority of benefits from RRSPs in Ontario. The total value of the tax deferral resulting from RRSPs in Ontario in 1988 was about \$1.7 billion.<sup>72</sup> Overall, women in Ontario made about 33 per cent of total contributions to RRSPs in 1988. Women received about 30 per cent of the benefits from the tax expenditure on RRSPs. The average value of the deduction for women claiming it ranged from \$112 in the \$0 to \$10,000 income range to \$3,616 in the \$100,000 and over income range. While 19 per cent of female taxfilers claimed a deduction for contributions to RRSPs, 27 per cent of male taxfilers claimed this deduction. However, women's RRSP participation rates have almost tripled between 1978 and 1988.<sup>73</sup>

For both men and women, the proportion of taxfilers claiming the deduction rose with income levels. The proportion of male taxfilers with incomes between \$0 and \$10,000 reporting these contributions was 2 per cent, rising to 73 per cent of male taxfilers with incomes above \$100,000. Women taxfilers showed a somewhat similar

<sup>70</sup>. Keith Horner and Satya Poddar, "Pension Reform in Canada: A Response to Changing Demographic and Employment Patterns" ( Paper prepared for the "Conference on the Impact of Demographic Changes for Public Finance," Seoul, August 24-27, 1992), p. 2.

<sup>71</sup>. Keith Horner and Satya Poddar, "Pension Reform in Canada," p. 23.

<sup>72</sup>. Estimates by Fair Tax Commission secretariat using Revenue Canada, *Taxation Statistics* (Ottawa: 1990), unpublished microdata. These estimates include the reduction in both federal and provincial tax payable.

<sup>73</sup>. Diane Galarneau, "Women Approaching Retirement," *Perspectives on Labour and Income* (Autumn 1991), p. 28.



pattern. The proportion of women taxfilers claiming an RRSP deduction peaked at 62 per cent in the \$80,000 to \$90,000 income range, dropping to 52 per cent in \$100,000 and over income range. The average amount of the deduction for women was \$2,470 while the average amount of the deduction for men was \$3,302.

Claimants for RPP deductions show a similar pattern. Overall, women in Ontario made about 36 per cent of total contributions to RPPs in 1988. Women received about 33 per cent of the benefits from the tax expenditures on RPPs. The average value of the deduction for women claiming it ranged from \$28 in the \$0 to \$10,000 income range to \$1,853 in the \$70,000 to \$80,000 income range.

While 16 per cent of female taxfilers claimed a deduction for contributions to RPPs, 20 per cent of male taxfilers claimed this deduction. For both male and female taxfilers the pattern of the proportion of taxfilers across income ranges was similar and peaked in the \$50,000 to \$60,000 income range. The average amount of the deduction for women was \$1,308 while the average amount of the deduction for men was \$1,767. These figures capture only a portion of the tax assistance delivered to members of RPPs, since they reflect only the employee contribution to such plans. Comprehensive data on the total subsidy delivered through RPPs will not be available until data on pension adjustments are released with the 1991 tax year data. However, it is likely that the contribution figures understate the proportion of tax benefits that are received by men. Most large, male-dominated industrial pension plans are non-contributory.

### **Retirement Income Policy Issues**

The "clawback" feature of the OAS program is eroding its universality. Because its threshold is not adjusted annually for the first three per cent of inflation, more and more seniors will be subject to this clawback over time.

The tax relief provided to those in retirement includes the pension and age credits. However, the pension income credit is not available for income from OAS and CPP. Since many women receive a large part of their retirement income from these programs, they may not be able to make full use of the pension credit. Individuals who cannot make use of the pension income and/or age credits may transfer these to a spouse. Married couples therefore have an advantage over unattached individuals in the tax treatment of their retirement income.

### **RECOMMENDATIONS**

*Opportunities for improving women's retirement income lie primarily outside the tax system, for example through improvement of the CPP benefit level, increases in cash transfer programs such as OAS, and improvement of the coverage of private pensions. Because of the importance of OAS to women's retirement income this program must be retained. The "clawback" threshold should be fully indexed to ensure that benefits are not eroded further.*

*The current system of tax-assisted savings for retirement results in systemic discrimination against women, as the benefits are disproportionately enjoyed by men. There were two views among working group members on the appropriate response to this discrimination. Some working group members believe that, in general, the current system has not effectively provided income security for retired Canadians. As a result, they believe public subsidies for private retirement savings (both RRSPs and pension plan based savings) delivered through the tax system should be redirected toward expanding and enriching the public retirement income security system (OAS, GIS and CPP).*

*Other working group members believe that tax-delivered assistance to retirement savings should be maintained because private savings for retirement are an important component of an overall retirement savings policy. Women are less able to use these provisions both because of their low income levels and the fact that their labour force participation rates are lower than those of men. However, these working group members believe that the elimination of these deductions is neither practical nor desirable.*

## TAX TREATMENT OF WOMEN'S UNPAID LABOUR

In their consideration of unpaid labour performed by women, working group members found it useful to differentiate among its different forms. Women's unpaid labour can be classified into three categories: unpaid household work involving caregiving for dependants; unpaid household work exclusive of caregiving; and, voluntary work outside the home. Women's voluntary work outside the home is often related to their caregiving activities in the household. In many rural areas and smaller centres, women's volunteer work is the only source of essential community services.

When considering unpaid labour in the household, differentiating between caregiving and other activities has important policy implications.<sup>74</sup> There are aspects of unpaid labour from which personal benefits are derived and other aspects which provide social benefits. The aspects that provide social benefits are associated with caregiving. The appropriate policy response depends on the type of work.

There are a number of different models for the tax treatment of unpaid household labour. These models reflect two different approaches to this labour. The first approach is aimed at taxing its value. The second approach is aimed at using the tax system as a means of paying for unpaid household labour. Both approaches have the objective of reducing the inherent bias contained in the tax system for women to perform unpaid rather than paid work.

### Taxing the Value of Unpaid Labour

The first approach treats unpaid household work as "earned income in kind" which has similarities to monetary income and should be included in a tax system that uses comprehensive income as its base. This approach considers unpaid labour as a personal benefit, either to the person who performs it, or to other members of the family. In a study prepared for the Royal Commission on the Status of Women, an arbitrary value was suggested for each individual's unpaid household work to be included in the tax base.<sup>75</sup> In addition, the value of the services provided by mothers who do not work outside the home was to be added to the income of their families with an offsetting credit for all families with children.

It was argued that the following benefits would result. First, the tax treatment of one-earner and two-earner families would be equalized. This is because two-earner

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<sup>74</sup>. See Margrit Eichler, "The Connection Between Paid and Unpaid Labour and its Implication for Creating Equality in Employment for Women," *Research Studies of Equality in Employment: A Royal Commission Report* (Ottawa: Supply and Services, 1985), pp. 207-215.

<sup>75</sup>. Douglas G. Hartle, *Taxation of the Incomes of Married Women*, pp. 41-58.

families often have to purchase the same services with after-tax dollars that one-earner families provide for themselves without tax cost. Second, if the imputed value of the services of women who work only in the home were taxed, women would pay the same taxes whether they worked in the home or outside of it. As a result, the tax barrier against working outside the home, caused by the non-taxation of domestic work, would largely be removed.

Another suggestion for the taxation of the imputed income from women's household services is that husbands should pay tax on it, based on the assumption that, in many cases, they are the primary beneficiaries of this work.<sup>76</sup> It has been argued that the advantages to this system are: the person who receives the benefit is being taxed on it; cash is available to pay the taxes; and, by taxing services provided inside the home, there are no additional tax benefits to working inside the home as compared to outside the home.

These models raise a number of problems. They do not differentiate between the aspects of household work that are of personal benefit and those that are of social benefit (caregiving activities). Working group members believe that socially beneficial unpaid work should not be taxed as imputed income to the individual. Second, imputed income has generally not been taxed because of valuation and administration problems.<sup>77</sup> One solution to the valuation problem generally associated with household work is to place an arbitrary value on it. However, the problems associated with requiring cash tax payments from work that does not provide cash income remains. Additional difficulties specific to the model suggesting the taxation of husbands on the value of their wives' work arise from the following facts: men and children engage in household labour, although to a lesser extent than women; and, women's household labour does not exclusively benefit their husbands, but is also a benefit to themselves and their children.

### **Compensating Unpaid Labour**

The second approach to the tax treatment of household work is aimed at using the tax system as a means of paying for unpaid household labour. It is also aimed at reducing the tax incentives for women to perform unpaid rather than paid work. The different models for compensating unpaid labour are geared towards varying objectives. Depending on the objectives, the tax credit would be paid to all women, solely to women who work outside the home, or to all households. These three alternatives are discussed below.

#### ***Tax Credits for All Women***

A refundable women's work credit, available to all women, has been suggested to compensate women both for their work in the home and their reduced wages from

<sup>76</sup>. Maureen Maloney, "Women and the Income Tax Act," pp. 199-202.

<sup>77</sup>. Brian Arnold et al., *Materials on Canadian Income Tax* (Don Mills: Richard de Boo, 1989), p. 64.

paid labour in comparison to men.<sup>78</sup> This credit is also aimed at bringing women's economic power in line with their actual economic contribution relative to men. A related approach would use the tax system to compensate women for the undervaluation of their paid work. Such an approach would tax women at a rate which was equal to 60 per cent of the rate applied to males.<sup>79</sup> This could be considered equivalent to an economy-wide pay equity program.

#### ***Tax Credits for Women who Work Outside the Home***

Providing a non-refundable tax credit to women who work outside the home for any household service they purchase has been recommended for the following reasons: it results in the equitable tax treatment of household services for women who buy them and for women who provide these services themselves; because of this, there are no additional tax benefits to unpaid work as compared to paid work; and finally, this would be achieved without imposing taxes on women who work only in the home and who often have no cash to pay for taxes.<sup>80</sup> This credit could also be seen as compensating women for the lower wages they receive for paid work.

#### ***Tax Credits for All Households***

Finally, a refundable tax credit available to all households has been suggested. Its objective would be to value, pay for, and subsequently bring into the tax base, the imputed income that arises from work in the home.<sup>81</sup> Each household would receive a refundable tax credit which could be put toward the cost of hiring someone to perform household services or, alternatively, could be taken as some financial recognition of the services performed. This tax credit would then be taxed, presumably to avoid the unequal tax treatment of income from paid and unpaid labour.

There are a number of problems associated with models that aim to use the tax system to compensate women for their unpaid labour in the home. They are similar to the models aimed at taxing the imputed income from household labour in that they do not differentiate between work that is of personal benefit and work that is of social benefit. Many working group members considered the provision of a subsidy for unpaid household work which is of personal benefit to individuals to be inappropriate. The taxation of women's paid work at a lower rate than men could result in high-income women paying tax at a rate that was equal to or lower than the rate of low-income men. This would undermine ability to pay as a criterion in determining tax payable.

### **Conclusions**

Working group members found these approaches useful for their contribution to recognizing the value of unpaid work. They also highlight the impact of this work

<sup>78</sup>. Kathleen Lahey, "The Tax Unit in Income Tax Theory," pp. 299-302.

<sup>79</sup>. Maureen Maloney, "The Appropriate Tax Unit," p. 8.

<sup>80</sup>. Maureen Maloney, "Women and the Income Tax Act," p. 196.

<sup>81</sup>. Maureen Maloney, "The Appropriate Tax Unit," pp. 11-12.

on women's paid labour force participation and, hence, their segregation in low-wage, part-time and insecure jobs, and their economic independence. However, none of the alternatives provided a solution to these problems that was acceptable to all working group members. Rather than focus on all unpaid labour, the working group concluded that the care of children, frail elderly and disabled dependants are the aspects of household labour that should receive public support. While a more equitable distribution of the personal aspects of unpaid work would assist in women's economic independence, the majority of working group members concluded the tax system is not the policy instrument through which to achieve this goal.

The sections that follow on the tax treatment of children and the tax treatment of women's other caregiving activities contain the working group's recommendations on those aspects of unpaid work. The section of the report on the tax unit considers the impact of the non-taxation of household labour on women's paid labour.

## TAX TREATMENT OF CHILDREN

### Child Tax Credits

The working group addressed the issue of the tax treatment of children because of the role that women often play as primary caregivers for children, and because of the service provided to society by women who raise children. As Maureen Maloney points out, “[children] are not a pure consumption decision of the parents to be exclusively enjoyed by them; children are also an integral part of society.”<sup>82</sup> Children are future wage earners and will ultimately pay for the benefits their elders enjoy in their old age. While the benefits which children ultimately provide are enjoyed by society as a whole, the cost of raising children is borne for the most part by their parents. Thus, if children are a “social good,” the burden of raising them should be distributed among all taxpayers whether they have children or not.<sup>83</sup> Anti-poverty measures directed towards children are of particular concern to the working group. In 1989, 43 per cent of poor children in Ontario were living in female-headed, single-parent families. In that year, 44 per cent of these families were poor.<sup>84</sup> In many cases, children’s poverty results from the economic inequality faced by their mothers.

### Background

Various methods are available to estimate the minimum costs associated with meeting children’s basic needs. However, the results are inevitably subjective. One approach is to use the Low Income Cut-off (LICO) estimates published by Statistics Canada. The income needed to raise children can be estimated using the increments in the LICO as a guide. Using this method, raising the first child requires an additional \$5,421 in income, the second an additional \$3,847, and the third and subsequent children \$2,710 per child.<sup>85</sup>

The other approach is to estimate the costs associated with raising a child in a specified locale. For example, the Social Planning Council of Metro Toronto provides detailed estimates of the various costs associated with raising children in 1991.<sup>86</sup> The costs included in the estimate include expenditures for food, clothing personal care, special school needs, recreation, housing, health, babysitting and daycare. The cost to a two parent family of raising an only child is about \$5,000 to \$7,000 per year, if no day care is purchased. The cost of day care adds another \$1,500 to \$12,000 depending on the age of the child and the kind of daycare being purchased. The cost of raising a

82. Maureen Maloney, “Women and the Income Tax Act,” p. 205.

83. Maloney, “Women and the Income Tax Act,” p. 205.

84. Compiled by the Fair Tax Commission secretariat using Statistics Canada, *Survey of Consumer Finances*, unpublished micro-data. These ratios include children under the age of 18.

85. Each amount is the change in the low income cut-off between a two earner couple with an additional child. The LICO figures are estimates for cities with a population over 500,000 in 1991.

86. Social Planning Council of Metropolitan Toronto, *Guides for Family Budgeting 1991* (Toronto, 1992), pp. 216-219.

child in a single-parent family is somewhat higher than the cost for a two-parent family.

### ***Current Tax Treatment***

In the 1992 federal budget, significant changes to the child benefits system was announced. The proposed changes are described following a brief summary of the current provisions. Current provisions include a refundable child tax credit targeted to low- and middle-income families and a non-refundable tax credit that can be claimed for each dependent child and is available to all families with children.<sup>87</sup> Single parents may also claim the equivalent-to-married tax credit for one child.<sup>88</sup> In addition to the preceding tax provisions, the family allowance, until the clawback for high-income families was introduced in 1989, was a universal program which provided some recognition of the costs associated with raising children. Family allowance income must be reported by the higher earning spouse. Low-income taxpayers may claim a non-refundable credit of \$375 for each child under 18 through the Ontario Tax Reduction program.

### ***Proposed Federal Changes—The Child Tax Benefit***

The 1992 federal budget announced the elimination of the family allowance, refundable child tax credit and non-refundable dependant tax credit for children under 19. Instead of these provisions, the government is proposing a child tax benefit which targets tax relief to low-income families with children rather than providing universal recognition of the cost of raising children. The changes will come into effect in January 1993.<sup>89</sup>

When it comes into effect, the child tax benefit will be worth \$1,020 annually per child. Families will receive an additional \$75 for the third and each subsequent child. Families not claiming the child care expense deduction will receive an additional \$213 per child under seven years of age. The benefit will be adjusted annually for increases in the Consumer Price Index (CPI) in excess of 3 per cent. The benefit is income tested. Maximum payments will go to families with net incomes under \$25,921 and benefits are reduced by 2.5 per cent of net family income above the threshold for families with one child and by 5 per cent for families with two or more children.

The first payment will be made in January 1993 and will be based on family income reported in the 1991 taxation year. Effective in July 1993, the payments will be based on family income reported in the 1992 taxation year. Payments will then be updated each July to reflect the previous year's tax information.

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87. Paragraph 118(1)(d).

88. Paragraph 118(1)(b).

89. *The 1992 Federal Budget*, p. 136.



In addition to the child tax benefit, the government will provide a \$500 supplement to the credit for low-income working families with children. In order to qualify for this supplement, the family's employment earnings must be at least \$3,750. The benefit is phased in at eight per cent (for every dollar of income earned above \$3,750, the benefit goes up by 8¢) until earnings reach \$10,000. The supplement is then phased out by 10 per cent for each dollar earned above \$20,921 and is eliminated once net family income exceeds \$25,921. The full \$500 supplement is available to families earning between \$10,000 and \$20,921.

### **Policy Issues**

Over a number of years the primary purpose of provisions relating to children in the tax system has changed. The Royal Commission on Taxation (1966) was most concerned with ensuring that equity was achieved between people with children and those without. The Commission's report noted that "couples with dependent children have a smaller fraction of their total income available for discretionary use than childless couples...[and] the more children a couple have, the smaller the fraction of income available for discretionary use."<sup>90</sup> The Commission felt that in order to reflect diminished ability to pay as a result of raising children accurately, parents should receive a tax credit for each of their children.

In 1987, as part of the federal tax reform initiative, the government converted the child tax exemption to a non-refundable tax credit for dependent children. The credit is doubled for the third and subsequent children. The conversion of this tax exemption to a credit was widely perceived to have resulted in a somewhat more progressive distribution of child benefits.<sup>91</sup> At this time, the federal government also increased the value of the refundable child tax credit for low-income families and introduced an enriched credit for children under seven for whom no child care expense is claimed.

The enriched refundable child tax credit reflected the growing view that tax credits for children should be used as an anti-poverty measure. The potential anti-poverty characteristics of child tax credits are of particular relevance to women, given the high percentage of female-headed single-parent families that are poor. However, while tax provisions related to children are increasingly being viewed as a tool for reducing child poverty, the principle of horizontal equity or universality is being abandoned. This shift is reflected in policy recommendations from a number of sources.

In 1988, Ontario's Social Assistance Review Committee (SARC) addressed the issue of tax benefits to reduce child poverty. One of the committee's principles for reform was that "all residents of Ontario who are in need must receive a fair and equitable

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<sup>90</sup>. Royal Commission on Taxation, *Taxation of Income*, Vol. 3, p. 17.

<sup>91</sup>. Ken Battle, "Briefing Notes on Child Benefits Proposals in the 1991 Commons Report on Child Poverty" (Paper prepared for the Fair Tax Commission Low Income Relief Working Group, January 1992), p. 6.

level of social assistance, adequate to meet their basic needs...."<sup>92</sup> In this vein, the Committee recommended that family allowance payments, the credit for dependants and the refundable child-tax credit, as well as other children's benefits, be amalgamated into a single refundable child tax credit targeted to low-income families with children. The benefit would be worth \$3,300 (in 1988 dollars) per child per year for those with an income up to and including \$15,000. After this threshold, the credit would be reduced by 25 per cent of additional earnings which results in benefits disappearing after earnings exceed \$50,000.<sup>93</sup> The SARC report acknowledged the loss of horizontal equity provisions in its proposal and, while the Committee agreed that it is a valid objective, it did not think it need apply to relatively affluent families.<sup>94</sup>

The same emphasis on reducing child poverty is found in the tax-related recommendations of the 1991 Standing Senate Committee report *Children in Poverty: Toward a Better Future*.<sup>95</sup> The Committee proposed two tax-based options aimed at reducing child poverty: one which would require spending an additional \$500 million; and a second which would require no additional spending. The first option included the provision of both a national child benefit and a refundable tax credit. The child benefit would be a universal benefit, fully indexed and without the "clawback" provisions for high income earners found in the family allowance. Like the current family allowance, the benefit would be considered part of taxable income. The refundable child tax credit would be targeted to low-income families with children and set at a rate that would meet the basic cost of raising a child. Like the child benefit, it would be fully indexed. The Committee estimated that \$500 million in extra resources would be needed to fund this option.

The Committee's second option was to provide only an enhanced refundable child tax credit targeted to poor families with children. The credit would be fully indexed and set at a level which would accurately reflect the cost of raising a child. No additional spending would have been required to implement this option because the credit addressing horizontal equity would be eliminated.<sup>96</sup> The Senate Committee's options reflect the ongoing debate regarding the need to include universal recognition in the tax system of the reduction in ability to pay which raising children entails. The Senate report argued that "current economic conditions can no longer support the ideal of universality..."<sup>97</sup> but, as the Child Poverty Action Group pointed out in a submission to the Committee, "the withdrawal of public benefits to middle and modest income families has not led to more substantial support for the

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92. Ontario, Social Assistance Review Committee, *Transitions* (Toronto: Queen's Printer, 1988), p. 13.

93. *Transitions*, pp.115-118.

94. *Transitions*, p. 117.

95. Canada, Senate, Standing Senate Committee on Social Affairs, Science and Technology, *Children in Poverty: Toward a Better Future* (Ottawa, 1991).

96. *Children in Poverty*, pp. 28-31.

97. *Children in Poverty*, p. 29.

poor in this country.”<sup>98</sup>

The federal government’s proposal for a child tax benefit in the 1992 Budget reflects the view that tax credits for children should be used exclusively as an anti-poverty measure and not as a way of achieving horizontal equity between those families with children and those without. The proposed child tax benefit is similar to the Senate Committee’s second option which recommended only a refundable child tax credit, except that the federal benefit is not fully indexed and does not reflect the cost of raising a child, even using the minimum cost estimates by Statistics Canada. An additional inadequacy of the proposed provisions is that the child tax benefit is only partially indexed. As a result, the benefit’s value will fall with each passing year and income thresholds will be pushed lower, resulting in fewer and fewer families qualifying for the benefit and the supplement to the working poor. Ken Battle, commenting on the federal proposal in an article in *The Globe and Mail*, estimates that families on welfare will not gain from the new plan, and low and middle income families, including the working poor, will be only marginally better off.<sup>99</sup> The inadequacy of the proposed federal benefit underlines the fact that universality is being sacrificed without some commensurate advantage to those most in need.

#### **RECOMMENDATION**

*A national, universal program should be implemented which recognizes both the reduced ability to pay and the social benefit provided by those raising children. The tax system should therefore provide public support to assist with the costs associated with raising children, and recognize the reduced ability to pay of parents compared to individuals and couples without children. Additional support should be provided to bring children out of poverty.*

*The non-refundable federal child tax credit, fully indexed to inflation, should be reintroduced and made refundable. The value of the new federal child tax benefit should be increased to reflect the non-discretionary costs of raising children, fully indexed to keep pace with inflation, and the income threshold above which the benefit is reduced should be raised. This benefit should be available to all low-income families, regardless of their sources of income.*

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<sup>98</sup>. *Children in Poverty*, p. 28.

<sup>99</sup>. Ken Battle, “Missing a Chance for a Solid Punch at Poverty,” *The Globe and Mail* (Toronto), March 12, 1992, p. A15.

## Child Care Expense Deduction

### **Background**

The majority of parents of young children are in the paid workforce. In Ontario in 1991, 66 per cent of mothers in families with pre-school children were in the workforce.<sup>100</sup> This included 69 per cent of mothers in two-parent families with pre-school age children and 47 per cent of mothers in female-headed, single-parent families with pre-school children.

These mothers obtain care for their children in a variety of settings. Common arrangements for child care include: in their own home by their parents; in their own homes by someone other than their parents (nanny, relative, sibling); in another person's unlicensed home through an arrangement between the caregiver and the family; in another person's home which has been approved and is affiliated with a licensed private home child care agency; and in licensed child care centres.<sup>101</sup>

For families with space and means, child care can be provided through the hiring of live-in domestic workers or nannies. The majority of these workers are from abroad and have limited protection from arbitrary employment practices. It is estimated that there are approximately 30,000 foreign domestic workers in Ontario, the majority of whom are paid at minimum wage and are required to live in, and are required to pay for room and board and their travel to and from Canada. Domestic workers have an average take-home pay of little more than \$600 a month; the cost to the employer is approximately \$18,000 per year.<sup>102</sup>

Currently in Ontario, there are approximately 120,000 licensed spaces for children between six weeks and 12 years of age. Costs of care vary according to the age of the child, with infant care costing about \$13,000 per year and school-age care costing about \$4,200 per year.<sup>103</sup> These costs are equivalent to 72 per cent and 23 per cent respectively of women's average gross earnings in Ontario in 1990. There are 56,000 subsidized spaces in the province. The most frequently used form of child care in Ontario is unlicensed. Although accurate information is difficult to obtain, it has been estimated that over 80 per cent of children receiving non-parental care are in unlicensed child care.<sup>104</sup> Responsibility for the supervision and monitoring of this type of arrangement rests with the parents. No minimum training is required for

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100. Statistics Canada, *Labour Force Annual Averages*, p. B-25.

101. The Child, Youth and Family Policy Research Centre, *The State of the Child in Ontario* (Toronto: Oxford University Press, 1991), p. 51.

102. Janet Maher, "Accommodating Caring in the Tax System: Child Care as a Case Study" (Discussion notes prepared for the Women and Taxation Working Group, November 27, 1991), pp. 4-5.

103. Janet Maher, "Accommodating Caring in the Tax System," pp. 4-5.

104. Status of Women, *Report on the Task Force and Childcare* (Ottawa: Canada Government Publishing Centre, 1986) quoted in The Child, Youth and Family Policy Research Centre, *The State of the Child in Ontario*, p. 51.

the caregiver and there are no safety requirements. For this reason, it can be assumed that the quality of care received in informal arrangements is more varied than that offered through licensed care.

The regulation of the child care system is a provincial responsibility. Government funding for child care includes both direct spending and tax-delivered assistance; it is a shared cost program between federal, provincial and municipal governments. The Ontario government is in the process of reforming the child care system and it has identified costs and supply of licensed child care spaces as problems that need to be addressed.<sup>105</sup>

#### **Current Tax Treatment**

Child care expenses are deductible from taxable income up to maximum amounts that vary according to the age of the child. The 1992 federal budget increased the allowable deduction for child care expenses, effective in 1993, from the current \$4,000 to \$5,000 for each child under seven and from \$2,000 to \$3,000 for each child between seven and fourteen. For dependent children of any age with a severe mental or physical condition, a taxpayer may claim up to \$5,000. For a disabled child who does not qualify for the \$5,000 limit, a taxpayer may claim up to the lower limit of \$3,000.

These expenses must be incurred by the parents to enable them to engage in employment, business, training, or research activities. Where there is more than one supporting person, the deduction for child care expenses usually must be taken by the one who has the lowest income regardless of who actually incurred the expense. Receipts issued by the caregiver are required to claim the deduction. When the caregiver is an individual the receipt must provide the caregiver's social insurance number. This is to ensure that the child care expenses will be reported as income of the individual who performs the services and that the transaction is verifiable.

Low-income families who are unable to deduct child care expenses may claim an additional \$213 (in 1992) per child under age seven through the federal refundable child tax credit. This provision will continue after the refundable child tax credit is rolled into the new federal child tax benefit.<sup>106</sup>

#### **Policy Issues**

Child care is a requirement for women's economic independence. The Social Assistance Review Committee noted in its report that the lack of child care is one of the greatest barriers to self-reliance facing sole-support parents.<sup>107</sup> The absence of affordable child care of adequate quality is also a major obstacle to equality in the

<sup>105</sup>. Ministry of Community and Social Services, *Child Care Reform in Ontario, Setting the Stage: A Public Consultation Paper* (Toronto: Queen's Printer, 1992), p. 4.

<sup>106</sup>. Currently, the \$207 supplement is reduced by 25 cents for every dollar of child care expenses claimed as a deduction. Clause 10 of Bill C-80, as it reads now, repeals this provision.

<sup>107</sup>. Social Assistance Review Committee, *Report of the Social Assistance Review Committee*:

workplace for mothers.<sup>108</sup>

In considering the tax treatment of child care expenses, working group members addressed the following issues: Should government financial support continue to be delivered both directly and through the tax system? If financial support continues to be delivered through the tax system (i.e. as tax subsidies), should the method of delivery be changed in order to make it more equitable?

The child care expense deduction can be interpreted as an attempt to put mothers who work in the home and mothers who work outside the home on a more equal tax footing. The deduction has the effect of not taxing a mother who works outside the home on certain amounts she pays for child care services which a mother who stays at home provides tax free.<sup>109</sup> However, the current tax treatment has received widespread criticism, which reflects two different points of view. The first takes the position that child care expenses are incurred to earn income. Therefore, these expenses should receive the same tax treatment as other expenses and should be fully deductible from income rather than being eligible for a limited deduction as is currently the case. The second takes the position that the current tax treatment of child care expenses is a poorly targeted subsidy that does not assist mothers who work outside the home in an equitable manner.

The argument that child care expenses are an expense of earning income formed part of the judgement of *Symes v. Canada*<sup>110</sup> which subsequently was overturned at the Federal Court of Appeal and is currently under appeal to the Supreme Court of Canada.<sup>111</sup> In this case it was argued that child care expenses qualified as a business expense and that the disallowance of the deduction violated the equality provisions in the Canadian Charter of Rights and Freedoms. The judge concluded that the taxpayer was being discriminated against on the basis of sex and parental status through denial of the deduction. While part of the judgement concerned the appropriate definition of a business expense, the relevant part for this discussion was the conclusion concerning the charter implications:

“[A]ny interpretation of the *Income Tax Act* which ignored the realities that women bear a major responsibility for child rearing and that the cost of child care is a major barrier to women’s participation would itself violate section 15 of the Charter. Moreover...the Act cannot be interpreted as if parents (mostly female [parents]) are the same as other workers or entrepreneurs (i.e. without child care responsibilities); it

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*Transitions, Summary* (Toronto: Queen’s Printer for Ontario, 1988), p. 53.

108. Rosalie Silberman Abella, *Equality in Employment: A Royal Commission Report* (Ottawa: Supply and Services, 1984), p. 178.

109. B. Arnold, et al., *Materials on Canadian Income Tax*, p. 65.

110. *Symes v. Canada* [1989] 1 CTC 476; 89 DTC 5243 (FCTD); 91 DTC 5397 (FCA).

111. Symes was a lawyer earning business income from her legal practice. If she had been an employee, she would not have been able to make this argument as employees are eligible for only the limited

must be interpreted in a way which recognized their specific experience as principally responsible for child care.<sup>112</sup>

However, because business expense deductions are available only to self-employed individuals and not to employees, the benefits of the Symes case would have been limited and would only have assisted a small number of women taxpayers.<sup>113</sup> But, even if a full deduction were available to employees, the value of a deduction rises with income and is of no monetary value to low-income families whose tax liability is reduced to zero before claiming a deduction for child care expenses. In Ontario in 1988, the average value of the deduction for women claiming the child care expense deduction ranged from \$97 in the \$0 to \$10,000 income range to \$1,827 in the \$90,000 to \$100,000 income range.<sup>114</sup> Thus, low-income families who cannot obtain subsidized child care obtain little benefit from the subsidy available in the tax system. The current system is not fair in this respect.

It has been estimated that in 1986 no more than 40 per cent of families who were eligible claimed the deduction.<sup>115</sup> The percentage of female taxfilers between 25 and 44 years of age who claimed the child care expense deduction in Ontario in 1988 was 12 per cent, while the percentage of male taxfilers was 2 per cent.<sup>116</sup> Therefore, this approach does not appear to reduce the barriers that women face in any meaningful way. The majority of families rely on unlicensed child care arrangements, and it appears that the majority of mothers who are using child care cannot take advantage of this provision because the individual caregiver's social insurance number must be provided before the deduction is granted. In particular, families using unregulated care are often unable to obtain a receipt from a caregiver who does not declare her earnings income for tax purposes. In such circumstances, though, parents usually pay somewhat less for child care.

### RECOMMENDATION

*A universally available, publicly-funded child care system is one of the requirements for economic independence for women. Some working group members be-*

deductions listed in the Act.

<sup>112</sup>. *Symes v. Canada*, at 490; 5253.

<sup>113</sup>. David A. Steele, "The Deductibility of Childcare Expenses Re-examined: *Symes v. R.*," *Canadian Family Law Quarterly* 7 (1991), pp. 334-335.

<sup>114</sup>. Estimates by Fair Tax Commission secretariat using Revenue Canada, *Taxation Statistics* (Ottawa: 1990), unpublished microdata. These estimates include the reduction in both federal and provincial tax payable.

<sup>115</sup>. K. Cooke, et al., *Report of the Task Force on Child Care* (Ottawa: Supply and Services, 1986) quoted in Martha Friendly, et al., "Child Care for Canadian Children and Families: A Discussion Paper" (Toronto: Child Care Resource and Research Unit, Centre for Urban and Community Studies, University of Toronto, 1991), p. 27.

<sup>116</sup>. Estimates by Taxation Policy Branch, Ministry of Treasury and Economics, using Revenue Canada, *Taxation Statistics* (Ottawa: 1990), unpublished microdata. The age range of 25 to 44 years was used to approximate child-rearing years.

lieve this form of child care will not be a reality for women in the near future. Consequently, tax-delivered assistance should be redesigned to make it more equitable. Specifically, the current limited deduction for child care expenses should be converted to a refundable credit and increased to more realistically reflect the costs of child care. A minimum credit should be available for parents with no receipts. Other working group members believe public support for child care should not be delivered through the tax system. They believe that the current deduction should be eliminated and the resulting increase in tax revenues be used to help finance child care as a public program, like health or education.

## **Tax Treatment of Support Payments**

### ***Background***

In light of the current realities facing separated women and single mothers, it is important to examine the tax rules and policy rationales for the tax treatment of support payments. In particular, to what extent does the current tax system promote or maintain a disparity in the standard of living between separated women and men, and between custodial and non-custodial households? Further, consideration should be given to whether the tax provisions relating to support disproportionately subsidize one parent's (or spouse's) support obligation even though, according to family law policy, support is to be apportioned between the parties based on need and relative ability to pay.

Women and children generally bear the financial consequences of a divorce or separation much more than men. In 1989, 42 per cent of poor children in Ontario were living in female-headed, single-parent families. In that year, 44 per cent of these families were poor.<sup>117</sup> A comparison of the financial circumstances of support payers and recipients shows that support payments generally represent a smaller share of the income of payers than of recipients. The majority of recipients (67 per cent) live in single-parent families and support payments represent 19 per cent of their average family income. In comparison, the majority of payers are unattached or from husband-wife families and support payments represent only nine per cent of their average income.<sup>118</sup> These figures reveal the great disparity between the incomes of support recipients and payers.

The available data do not distinguish between support payments made on behalf of the former spouse and those made on behalf of children, as they are treated in the same manner. However, the *Evaluation of the Divorce Act* notes that spousal support was rarely requested and rarely granted. A request for spousal support was indicated in only 16 per cent of the 1,478 divorce files reviewed, and in just under 19 per

<sup>117</sup>. Compiled by the Fair Tax Commission Secretariat using Statistics Canada, *Survey of Consumer Finances*, unpublished micro-data. These ratios include children under the age of 18.

<sup>118</sup>. Diane Galarneau, "Alimony and Child Support," (Summer 1992) *Perspectives on Labour and*



cent of the 1,210 cases where there were dependent children.<sup>119</sup> In addition, a partial picture of spousal support is available by considering women receiving support payments who are unattached individuals. In 1988, 84 per cent of unattached individuals in Canada receiving support payments were 45 years of age or older.<sup>120</sup> Support payments accounted for the largest share of their income (38 per cent of their average income).<sup>121</sup> These unattached individuals also had the highest median and average payments (\$7,400) of all the family types considered.

#### **Current Tax Treatment**

Support payers (who are mostly men) deduct from taxable income the full amount of qualifying support payments and support recipients (who are mostly women with children) are required to report these payments as income on which they are taxed.<sup>122</sup> The income tax treatment of spousal support is the same as the treatment of child support.

In order for support to be deductible by the payer and, consequently, taxable to the recipient, the *Income Tax Act* sets out strict criteria.<sup>123</sup> The following criteria must be met in order to require the inclusion and to ensure the deductibility of support payments:

- The parties must be living separate and apart at both the time of the payment and throughout the remainder of the year;
- The payments must be made pursuant to a court order or a written separation agreement entered into by both parties;
- The payments must be made for the maintenance of the recipient—that is for such things as medical expenses, clothing, education and the normal, daily needs of an individual or dependent. (This can be contrasted with capital needs such as lump sum payments for the purchase of a home or automobile);
- The support payments must be payable on a periodic basis; and,
- Payments ordered under provincial laws must be made to an individual of the opposite sex who cohabited with the recipient in a conjugal relationship or is the natural parent of the child of the recipient.

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*Income*, p. 19. The data reported here are national and based on the 1988 tax year.

<sup>119</sup>. Department of Justice, Bureau of Review, *Evaluation of the Divorce Act, Phase II, Monitoring and Evaluation* (Ottawa: Department of Justice, May 1990), p. 75.

<sup>120</sup>. Diane Galarneau, "Alimony and Child Support," p. 12.

<sup>121</sup>. Diane Galarneau, "Alimony and Child Support," p. 16.

<sup>122</sup>. According to the *Divorce Act Evaluation*, women were awarded sole custody of the children in three-quarters of the cases and, in 98 per cent of the cases, the direction of support is from the father to the mother.

<sup>123</sup>. Paragraphs 56(1)(b), 56(1)(c), 56(1)(c.1); Paragraphs 60(b), 60(c), 60 (c.1).

### **Policy Issues**

The federal tax policy rationale for the inclusion/deduction scheme has been provided by the Department of Finance:

First, it is a principle of taxation that, where a deduction has been claimed by a payer in respect of a payment, the recipient of that payment should pay income tax on it. Second, by requiring support recipients to include the amount of child support payments within their income, the system recognizes the basic principle of fairness that taxpayers with the same incomes from different sources should pay the same amount of tax. Third, the tax assistance offered by the deduction may provide an incentive for the payer to make regular and complete payments. Fourth, the tax treatment provides a subsidy which benefits the children since it encourages higher support payments.<sup>124</sup>

When the policy was developed in 1942, the majority of support payers were in a higher tax bracket than the recipient. By transferring the obligation to pay tax on support from the payer to the recipient (who is in a lower tax bracket), there is an overall tax savings. Arguably, since the combined federal plus provincial taxes of the separated couple are lowered, an incentive is provided for the payer to increase the support payments.

Research suggests that, in general, support payments are low relative to the cost of living and to the costs of raising children.<sup>125</sup> Studies suggest a consistent dollar amount is ordered by the courts, regardless of the father's income. The deduction-inclusion policy is equitable only if the tax consequences of support payments are taken into account at the time a support order is made. This largely depends on the family lawyer's expertise and negotiating skills and the judge's comprehension of the tax effects. The tax implications of support orders are not always taken into account, and there is no obligation for the support payer to pass along the tax savings in the absence of this being provided for in the actual support order.

Nor does there appear to be a connection between the tax savings resulting from the deduction and success in ensuring payment of support obligations. In fact, as of March 1, 1992, 75 per cent of support payers in Ontario were to some degree in default in their payment of support orders.<sup>126</sup> It is generally recognized that default is not a simple function of ability to pay. Other factors relating to compliance may include resentment towards the former partner, dissatisfaction with access and child

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<sup>124</sup>. Report of the Federal/Provincial/Territorial Family Law Committee, *The Financial Implications of Child Support Guidelines: Research Report* (n.p., May 1992), p. 84.

<sup>125</sup>. Ellen B. Zweibel, "Canadian Income Tax Policy Regarding Child Support Payments: Old Rationales Are Still Being Applied to New Realities" (Draft paper prepared for the Research and Policy Workshop on the Single-Parent Family, March 18-21, 1992, Lake Louise, Alberta), pp. 16-18.

<sup>126</sup>. Ministry of the Attorney General, Family Support Plan Information Sheet, April 2, 1992.

custody, or dissatisfaction with the legal system in general.<sup>127</sup>

The rationale that significant tax savings will be passed along through higher support payments is based upon the stereotype of the high-income-earning father making payments to a woman who does not work outside the home.<sup>128</sup> In Ontario in 1991, 57 per cent of single mothers were in the labour force. Further, not all fathers making support payments are high-income earners and, as the number of tax brackets has been reduced, support payers and recipients are not necessarily in different tax brackets, although one may earn more than the other.

The rationale that the availability of the deduction for child support payers necessitates inclusion as income for recipients is questionable. If these payments were not deductible, the principle of inclusion in the recipient's income would not apply. General tax principles would suggest that child support payments should not be deductible as they are not an expense to earn income and the expenses are of a personal nature. These expenses are not deductible for parents who are living with their spouse and children, nor are they deductible for the custodial parent. Therefore this provision eliminates horizontal equity between the custodial and non-custodial parent, and between families where the parents live together and families where the parents live apart.

The suggestion that the inclusion of child support payments in income is necessary from a tax fairness perspective is also questionable since it is based on the assumption that these payments can be best characterized as income. It may be more appropriate to describe these payments as reimbursement of costs borne by the custodial parent, which the custodial and non-custodial parent have an obligation to share.

The horizontal equity arguments against the inclusion and deduction provisions are somewhat different when considering spousal support payments. In the past, alimony reflected the assumption that women in marriage are dependent on their husband's income and that, if found "blameless" for the breakup of the marriage, were entitled to continuing support until they remarried and became economically dependent on another man. Currently, spousal support payments reflect contributions to the spousal relationship through income, property or domestic labour. Non-periodic support payments, or those which were not court-ordered, are not deductible or included in the income of the recipient. Therefore, equity between individuals who receive lump-sum payments and those who receive periodic payments would require that they have the same tax treatment.

For women with dependent children who are receiving both spousal and child support, separation of these two types of payments for taxation purposes may not be desirable. First, because of the difficulty of splitting the uses of income within families,

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127. Canadian Institute for Research, *Matrimonial Support Failures: Reasons Profiles and Perceptions of Individuals Involved* (Edmonton: University of Alberta Institute of Law Research and Reform, 1981) quoted in Ellen B. Zweibel, "Canadian Income Tax Policy Regarding Child Support Payments," p. 15.

128. Ellen B. Zweibel, "Canadian Income Tax Policy Regarding Child Support Payments," p. 18.

differentiating between payments to mothers and children might be inappropriate. Second, a great deal of complexity is introduced when spousal support is taxed differently than child support, as there is an incentive for non-deductible support to be provided in the form of deductible support for tax purposes.<sup>129</sup> Finally, under the Ontario *Family Law Act*, one of the considerations in determining spousal support requirements is to ensure that the economic burden of child support is shared equitably. As a result, the spousal payment amount can be partially based on the needs of the children.

#### **RECOMMENDATION**

*Child support payments should not be deducted or included in the calculation of taxable income. This would treat child support costs in the same manner for tax purposes for custodial and non-custodial parents. It would also result in equal treatment of child support costs in families in which parents live together and in those in which parents are separated or divorced. For ease of tax administration, and to avoid the introduction of complex anti-avoidance measures, spousal support payments should be treated in the same manner. Transitional provisions should be established for agreements that were negotiated under the current provisions.*

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<sup>129</sup>. Beverly I. Moran, "Welcome to the Funhouse: The Incredible Maze of Modern Divorce Taxation" (*Harvard Journal on Legislation* Vol. 26: 117, 1989), p. 118.

## TAX TREATMENT OF WOMEN'S OTHER CAREGIVING ACTIVITIES

### Background

Increasingly, long-term care policy relies on women's unpaid work to care for their frail elderly relatives or relatives with disabilities. As the population ages and care for the frail elderly and the disabled is shifted to the family, demands on women will continue to increase. The question working group members addressed was the extent to which the tax system should be used to give recognition to unpaid caregiving provided to elderly or disabled dependants.

Many individuals and families care for a frail elderly relative or a relative with a disability. This is the result of both the lack of alternatives and the choice of family members. It is estimated that family members and friends provide 80 to 90 per cent of the care and support of people who live at home and require help with the activities of daily living.<sup>130</sup> For the most part, care is provided by wives, daughters and daughters-in-law. The major sources of assistance with the activities of daily living for those 55 and up are spouses (50 per cent) and daughters (23 per cent).<sup>131</sup>

There are growing pressures on the informal provision of long-term care by women for their frail elderly relatives or relatives with a disability. The percentage of the population over 65 is increasing. By 2006, people over the age of 65 will constitute 14 per cent of the population, up from 11 per cent in 1986. The fastest growing group will be those over 85, who are the largest users of health and social services.<sup>132</sup> With increasing numbers of women in the workforce, fewer are available to provide full-time care for frail elderly or disabled relatives.<sup>133</sup>

Women who care for frail elderly relatives or relatives with a disability on a full-time basis are precluded from participating in the paid workforce and forego earnings as well as the financial security of a pension. Women who provide part-time care while remaining in the paid workforce provide this care in addition to their other unpaid labour—this results in a “triple” workday. An American study of daughters providing care for mothers found that daughters who worked outside the home provided as much help with tasks such as housework, laundry, grocery shopping and financial management as those without paid employment. Employed daughters provided less help with meal preparation and personal care than non-employed daughters but in most cases they arranged for the services to be provided

<sup>130</sup>. Ministry of Community and Social Services, Ministry of Health, Ministry of Citizenship, *Redirection of Long-Term Care and Support Services in Ontario - A Public Consultation Paper* (Toronto, 1991), p. 10.

<sup>131</sup>. Statistics Canada, *General Social Survey* (Ottawa, 1985).

<sup>132</sup>. Statistics Canada, *Review of Demography and its Implications for Economic and Social Policy, Update Number Five* (Ottawa, 1988), p. 49.

<sup>133</sup>. Canadian Advisory Council on the Status of Women (1990) quoted in J. Myles, “Editorial: Women,

by others and frequently paid for them.<sup>134</sup> Providing care to a frail relative can also limit women's employment opportunities as they may be less able to work overtime or flexible hours and tend to require time off when the person requiring care has a crisis.

***Ontario's Redirection of Long-Term Care and Support Services***

The Government of Ontario has launched a major redirection of the current long-term care system. A consultation paper released in October 1991 includes a commitment to supporting family caregivers, who are acknowledged as being "predominantly women."<sup>135</sup> The redirection in care includes: improved information on and referral to the services of professional caregivers; counselling and support groups for families who need help coping with the stress of caring for a relative; expanded training services in the home by nurses and other professionals; expanded and more flexible respite services; and, free adult day programs.<sup>136</sup>

Feedback from the government's consultations on the redirection plan revealed that compensation for family caregivers was a concern in many communities.<sup>137</sup> The Senior Citizen Consumer Alliance for Long-Term Care Reform took the position that in order to support family caregivers, who are mainly women, the government should provide direct financial assistance along with respite and counselling services. The Alliance recommended a family caregiver compensation pilot project through which the government would allocate between \$3,000 and \$10,000 per year on a case-by-case basis to family caregivers who are most in need. It also recommended that the government enrich the dependant tax credit for people who care for older family members.<sup>138</sup> Many of those living in rural and remote communities also suggested that direct financial compensation be provided to those caring for frail relatives since professional support services are frequently scarce in these areas. Some participants in the consultation suggested that compensation in the form of a tax credit to the caregiver be provided. Others suggested that direct financial compensation, up to the amount the government would otherwise contribute to caring for that individual in a long-term care facility, be provided to family members who have left paid employment to care for a frail elderly relative or relative with a disability.

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the Welfare State and Care Giving," *Canadian Journal on Aging*, 10, 2 (1991), p. 82.

<sup>134</sup>. E.M. Brody and C.B. Schoonover, "Patterns of parent-care when adult daughters work and when they do not," *The Gerontologist*, 26 (1986) quoted in E.M. McGee and M.M. Kimball, *Women and Aging* (Toronto: Butterworths, 1987), p. 87.

<sup>135</sup>. *Redirection of Long-Term Care*, Preface.

<sup>136</sup>. *Redirection of Long-Term Care*, pp. 11-12.

<sup>137</sup>. Source for responses to the Redirection of Long-term Care Consultation: Ontario, Community and Support Services Division, Long-Term Care Policy Branch (Briefing note prepared for the Low-Income Tax Relief Working Group).

<sup>138</sup>. The Senior Citizens' Consumer Alliance for Long-Term Care Reform, *Consumer Report on Long-Term Care Reform* (Toronto, 1991), p. 27.

A different position was taken by the National Advisory Council on Aging. It recommended that all monetary support for informal care in the community should be provided directly to care recipients so they can maintain a sense of autonomy and have as much control as possible over their own lives. The Council suggested that those who require services to remain in the community should be eligible for an allowance in the form of a cash benefit or a refundable tax credit which offsets the cost of those services, whether they are provided by a related or non-related person.<sup>139</sup> Young adults with disabilities have expressed a similar preference for benefits being controlled by the care recipient rather than the care provider. Many would prefer to hire a non-family caregiver because it provides them with more control over their care and reduces the potential for abuse.<sup>140</sup>

### **Current Tax Treatment**

The following non-refundable tax credits are available to taxpayers providing care to elderly relatives or family members with a disability. The values given are the amounts for 1992 federal tax purposes and are the maximum amounts before any reduction for the income earned by the dependant.

#### ***Credits for Dependants***

##### ***Wholly Dependent Person's Credit***

Persons who are unmarried (or are married but are not supporting, being supported by, or living with a spouse) may claim a credit for supporting a parent or grandparent, or an older child or sibling who is wholly dependent by reason of physical or mental infirmity. Conditions of this claim include the following: the claimant must support the person in their home; and the credit may only be claimed for one person. The maximum value of the credit is \$915, reduced when the dependant's income exceeds \$539.

##### ***Dependants Tax Credit***

A credit is provided for a taxpayer's dependants or the dependants of the taxpayer's spouse. Dependants include relatives (such as parents, aunts, uncles, and siblings) who are dependent by reason of mental or physical infirmity as well as children and nieces and nephews. The maximum value of the credit for individuals who are dependent by reason of mental or physical infirmity is \$269 per person. The same person can not be claimed under both this provision and the wholly dependent person's credit.

##### ***Disability Credit***

A disability credit of \$720 is provided to individuals with a severe mental or physical impairment which is expected to last for a continuous period of at least 12

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<sup>139</sup>. Canada, The National Advisory Council on Aging, *Informal Caregiving: Support and Enhancement* (Ottawa, 1990), p. 3.

<sup>140</sup>. Long-Term Care Policy Branch, "Briefing Note," p. 6.

months. The credit is only available if the cost of a full-time attendant or full-time care in a nursing home is not claimed as a medical expense. The spouse of the person who is impaired may claim the credit if that individual does not need to use it. The credit may also be transferred to a relative who is claiming the person as a wholly dependent person or a dependent child or, in the case of a child or parent (or grandchild or grandparent), could have made the claim except for the child's income.<sup>141</sup>

### *Medical Expenses Credit*

Medical expenses for which the taxpayer has not been reimbursed, in excess of the lesser of \$1,615 or three per cent of net income, are eligible for a 17 per cent credit. The expenses giving rise to the tax credit may be for the taxpayer, his/her spouse or any dependant for whom the taxpayer is entitled to claim a dependant's or wholly dependent person's credit. Eligible expenses include: payments to a medical practitioner, nurse or hospital; remuneration for one full-time attendant; payment for full-time care in a nursing home; for drugs, devices and oxygen; for a guide dog; and for expenses incurred in making structural modifications to a home.<sup>142</sup>

In addition, the following credits are available in two of the provinces:

### *Ontario Tax Reduction Program*

Low income taxpayers may claim \$375 for each dependant with a disability.

### *Quebec's Refundable Tax Credit*

The 1992/93 Quebec budget included a new refundable tax credit paid to individuals who house their father, mother, grandfather or grandmother for at least 12 consecutive months. The parents and grandparents must be 70 or over, or 60 and over if they are suffering from a serious disability. The credit is worth \$440 for each dependant.

## **Policy Discussion**

Current provisions such as the disability credit, medical expenses credit and Ontario Tax Reduction program recognize some of the costs associated with having a disability or caring for a child, spouse or parent (and, in some cases, a sibling) who has a disability. The wholly dependent person's credit and the dependant credit also recognize that there are costs to providing a home for a dependant, including a frail elderly relative or a relative with a disability. Each of these provisions thus constitutes recognition of a reduced ability to pay. The disability credit and the wholly dependent person and dependant credits also provide some recognition of the unpaid work provided by the family caregiver in that they can be transferred to the caregiver by the dependent individual.

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<sup>141</sup>. Subsection 118.3(1).

<sup>142</sup>. Subsection 118.2(1)



In order to recognize further women's work as caregivers for elderly and disabled relatives, the working group considered the introduction of a refundable tax credit for caregivers. Like the Quebec credit, a caregiver tax credit could be claimed by individuals who provide care for a dependent elderly relative or a relative with a disability in their home. This credit would provide financial support for women's unpaid work as caregivers. However, the amount of care required by frail elderly or disabled dependants varies with the degree of frailty and disability. The tax system is an inappropriate policy instrument for providing varied amounts of support based on needs that cannot be measured through easily quantifiable indicators such as income. Financial support for this kind of care should therefore be delivered directly.

In conjunction with the tax credit, consideration might be given to recommending that a hiatus for CPP contributions be allowed for people taking time out of the paid labour force to care for an elderly or disabled relative. This arrangement is currently available for seven years for individuals who wish to stay home and look after a child.

There are several advantages to providing financial support to the elderly or disabled person receiving the care rather than to the caregiver. There is concern among elderly and disabled groups that their autonomy and independence with respect to care decisions is threatened if tax advantages go to the informal caregiver. A 1981 study found that many women receiving, or likely to receive, long-term care value the independence afforded by support services provided outside the family.<sup>143</sup> Current studies on care provided to aging parents have found that "sons are likely to provide care only in situations where a daughter is not available. Also they are more likely to depend on their spouse for help."<sup>144</sup> As a result, another advantage of this approach is that it does not reinforce, through the tax or transfer systems, women's responsibility for caregiving activities that should be more equitably shared among family members.

### RECOMMENDATION

*The increasing reliance by policymakers on women's continued availability as unpaid caregivers in the home is an unrealistic and unsustainable policy direction. These caregiving activities should be acknowledged and adequately compensated. Because the tax system does not have the flexibility to address the variety of caregiving situations that arise, this financial support should be directly delivered. It should be delivered in a manner that allows those receiving care to maintain their independence and autonomy. As an acknowledgement of the reduced ability to pay of those with disabilities, the transferable disability credit and medical expenses credit should be maintained.*

<sup>143</sup>. E.M. Brody, "Women in the middle and family help to older people," *The Gerontologist*, 21 (1981) quoted in McGee and Kimball, *Women and Aging*, p. 86.

<sup>144</sup>. A. Horowitz, "Sons and daughters as caregivers to older parents," *The Gerontologist*, 25 (1985) quoted in McGee and Kimball, *Women and Aging*, p. 87.

*Until policies are put in place that adequately address the needs of both those receiving care and those providing care, the existing credits for frail elderly and disabled dependants receiving care should be increased to reflect the costs of caregiving and should be made refundable to the caregiver.*

## CONCLUSIONS

An analysis of the impact of the tax system on women must begin with the socio-economic context within which it operates. The central feature of that context is that women enter into the tax system from a position of economic inequality. This inequality results in systemic discrimination against women in the tax system.

Women's primary responsibility for the young, the sick and the frail elderly is a critical factor in determining the impact of the tax system on women as compared to men. In making its recommendations, the working group considered the interaction of the tax system with these caregiving activities. They concluded that changes should be made to the tax system to enhance progress towards the elimination of inequities faced by women and to address provisions that systemically discriminate against women.

### ***Tax Policy-Making Process***

In their analysis, working group members were hindered by the lack of information provided by governments on women and the tax system. As a result, they made the following recommendations on the tax policy making process:

- Any proposed changes to tax provisions should be analyzed for their impact by gender prior to implementation. Such analysis should be included in the budget in which these changes are introduced.
- Tax data by gender and by income level should regularly be made available to the public through inclusion in the publication *Taxation Statistics* produced by Revenue Canada.
- Tax policy should not be premised on the assumption of an equitable distribution of income within all families. The available research suggests that this assumption is not necessarily correct. At a minimum, the implications of policy decisions should be considered both for families in which incomes are pooled and for families in which incomes are not shared equitably.

### ***The Tax Unit***

Working group members concluded that the Canadian system is more conducive to furthering women's economic independence and autonomy than other models for the tax unit. They recommended the following reforms to current provisions that deviate from the individual as the tax unit:

- The definition of spouse should be changed to reflect family law obligations for support and to acknowledge a wider range of familial relationships. Same-sex spousal relationships should be recognized for both tax and support obligation purposes.

- The current rules providing for a marital credit and the transfer of unused spousal credits should be reformed. These provisions are a disincentive to women's paid labour force participation, and they do not contribute to women's autonomy. In addition, because the marital credit is structured as a dependency credit, it does not acknowledge the value of women's unpaid labour in the home.

There were two options put forward by the working group on the nature of these reforms. Some members believe that the provisions should be eliminated. Other working group members believe the changes required to address gender inequities in this instance have to be weighed against the cost of eliminating these benefits to middle- and low-income families who are their major beneficiaries. As a result, these working group members believe the married credit and transferability of other credits to spouses should be maintained for horizontal equity reasons, but changes should be made to the delivery of these credits to better target the benefits. Therefore, they believe the value of these credits in reducing the tax payable by the spouse who claims them should be calculated separately, and delivered as a refundable credit to the spouse with the lower income.

- In principle, the benefit unit for tax-delivered assistance should be the same as the one for directly-delivered assistance. In most cases, for both these purposes, the benefit unit should be the individual, except when she or he is living with a spouse who is legally obligated to provide support.

#### ***Tax Treatment of Retirement Income and Savings for Retirement***

The current system of tax-assisted savings for retirement results in systemic discrimination against women, as the benefits are disproportionately enjoyed by men.

There were two views among working group members on the appropriate response to this discrimination. Some working group members also believe that, in general, the current system has not effectively provided income security for retired Canadians. As a result, they believe public subsidies for private retirement savings (both RRSPs and pension-plan based savings) delivered through the tax system should be redirected toward expanding and enriching the public retirement income security system (OAS, GIS and CPP).

Other working group members believe that tax-delivered assistance to retirement savings should be maintained because private savings for retirement are an important component of an overall retirement savings policy. Women are less able to use these provisions because of their low income levels and the fact that their labour force participation rates are lower than those of men. However, these working group members believe that the elimination of these deductions is neither practical nor desirable.

#### ***Provisions that Interact with Caregiving Activities***

The working group made the following recommendations with respect to tax provisions that interact with caregiving activities:

### ***Child Tax Benefit***

A national, universal program should be implemented which recognizes both the reduced ability to pay and the social benefit provided by those raising children. The tax system should therefore provide public support to assist with the costs associated with raising children, and recognize the reduced ability to pay of parents compared to individuals and couples without children. Additional support should be provided to bring children out of poverty.

The non-refundable federal child tax credit, fully indexed to inflation, should be reintroduced and made refundable. The value of the new federal child tax benefit should be increased to reflect the non-discretionary costs of raising children, fully indexed to keep pace with inflation, and the income threshold above which the benefit is reduced should be raised. This benefit should be available to all low-income families, regardless of their sources of income.

### ***Child Care Expense Deduction***

A universally available, publicly-funded child care system is one of the requirements for economic independence for women. Some working group members believe this form of child care will not be a reality for women in the near future. Consequently, tax-delivered assistance should be redesigned to make it more equitable. Specifically, the current limited deduction for child care expenses should be converted to a refundable credit and increased to more realistically reflect the costs of child care. A minimum credit should be available for parents with no receipts. Other working group members believe public support for child care should not be delivered through the tax system. They believe that the current deduction should be eliminated and the resulting increase in tax revenues be used to help finance child care as a public program, like health or education.

### ***Tax Treatment of Support Payments***

Child support payments should not be deducted or included in the calculation of taxable income. This would treat child support costs in the same manner for tax purposes for custodial and non-custodial parents. It would also result in equal treatment of child support costs in families in which parents live together and in those in which parents are separated or divorced. For ease of tax administration, and to avoid the introduction of complex anti-avoidance measures, spousal support payments should be treated in the same manner. Transitional provisions should be established for agreements that were negotiated under the current provisions.

### ***Caregiving to Frail Elderly and Disabled Relatives***

The increasing reliance by policymakers on women's continued availability as unpaid caregivers in the home is an unrealistic and unsustainable policy direction. These caregiving activities should be acknowledged and adequately compensated. Because the tax system does not have the flexibility to address the variety of caregiving situations that arise, this financial support should be directly delivered. It should be delivered in a manner that allows those receiving care to maintain their independence and autonomy. As an acknowledgement of the reduced ability to pay of those with disabilities, the transferable disability credit and medical expenses credit

should be maintained.

Until policies are put in place that adequately address the needs of both those receiving care and those providing care, the existing credits for frail elderly and disabled dependants receiving care should be increased to reflect the costs of caregiving and should be made refundable to the caregiver.

***Implementation of Recommendations***

Very few of these recommendations can be implemented by the Treasurer under the current tax collection agreements. Some of these recommendations, such as the child tax benefit provisions, could be implemented provincially as supplements to the federal benefits but would be more appropriately implemented at a national level.





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