



## Tax, marriage & transferable allowances

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Since the introduction of independent taxation in 1990, all individuals have been assessed for tax as separate persons. This reform reversed a principle that had underpinned the tax system for almost two hundred years: that a married woman's income was simply part of her husband's income, and should be taxed as such. Prior to the introduction of independent taxation, the then Conservative Government consulted on allowing husbands and wives to transfer their personal tax allowance to their spouse. In the event, the Government acknowledged a number of serious objections to this proposal, and chose another route: taxing all persons as individuals, each given their own tax allowance, but also providing an extra allowance for married persons – the married couple's allowance (MCA).

Personal allowances are worth more to higher rate taxpayers, since they represent a fixed sum which is exempted from tax at an individual's highest marginal tax rate. In his March 1993 Budget, the then Chancellor Norman Lamont argued that this was contrary to the purpose of the MCA, and proposed it would be 'restricted' to 20% from April 1994, so that it was worth the same amount to all eligible taxpayers. In successive years the MCA was restricted further: first to 15% (1995/99), then to 10% (1999/00). In his 1999 Budget the then Chancellor Gordon Brown announced that the MCA would be withdrawn from all couples from 6 April 2000, except couples who were already 65 or over. The allowance may still be claimed by those elderly couples and civil partners who were 65 at this time.

In July 2007 the Conservative think tank, the Centre for Social Justice, published a report on social breakdown, recommending "the transferring of tax allowances between married couples ... to support the institution of marriage because of its proven advantages to children and the wider society."<sup>1</sup> In the next months the Conservative Party gave a general commitment to 'recognising' marriage in the tax system,<sup>2</sup> and in the 2010 General Election it proposed that couples and civil partners who were basic rate taxpayers should be entitled to transfer just part of their allowance – worth, in effect, up to £150.<sup>3</sup>

After the election, the new Coalition Government did not make any specific proposals for transferable allowances, and the issue was not mentioned in its first Budget on 22 June

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<sup>1</sup> Social Justice Policy Group, *Breakthrough Britain: Volume 1 – Family Breakdown*, July 2007 pp 70-1

<sup>2</sup> Conservative Party, *Repair: plan for social reform*, 2008 p41

<sup>3</sup> Institute for Fiscal Studies, IFS press release, *Conservatives to recognise one third of marriages in the tax system*, 9 April 2010

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2010.<sup>4</sup> On a number of occasions over the next three years, Ministers underlined that the Government was committed to bringing forward proposals to recognise marriage through the tax and benefits system,<sup>5</sup> but it was not until September 2013 that the Prime Minister announced that from April 2015 spouses and civil partners would be allowed to transfer £1,000 of their own allowance to their partner – provided neither of them were higher rate taxpayers.<sup>6</sup>

This note looks at the arguments that have been made for transferable tax allowances, first in the context of independent taxation, and then, more recently, in relation to the work of the Centre for Social Justice, before looking at the Coalition Government's plans.

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## 1 The introduction of independent taxation

Since the introduction of income tax in 1799, a married woman's income had been treated as part of her husband's, and taxed accordingly. In December 1980, the Conservative Government published *The Taxation of Husband and Wife* (Cmnd 8093) which proposed three possibilities for the unit of taxation in the taxation of families: the family itself, including dependants; the married couple; and, the individual, irrespective of their marital status. In his 1985 Budget speech, the then Chancellor, Nigel Lawson, announced that a second Green Paper would be published on this issue:

The present structure of personal income tax is far from satisfactory ... The system discriminates against the family in which the wife stays at home to look after the children. It denies to the partners in a marriage the independence and privacy in their tax affairs which they have a right to expect. There is therefore a strong case for changing to a new system of personal allowances more suited to today's economic and social needs. Under this, everyone, man or woman, married or single, would have the same standard allowance; but if either a wife or husband were unable to make full use of their allowance, the unused portion could be transferred, if they so wished, to their partner.<sup>7</sup>

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<sup>4</sup> The agreement underpinning the Coalition simply stated that Liberal Democrat MPs would be allowed to abstain from voting for transferable allowances (HM Government, *The Coalition: our programme for government*, 20 May 2010 p30).

<sup>5</sup> For example, [HC Deb 11 December 2012 cc137-8](#); [HC Deb 18 March 2013 c423W](#); [HC Deb 2 July 2013 c881](#)

<sup>6</sup> HM Treasury press notice, *Marriage Transferable Tax Allowance announced*, 30 September 2013. In his Autumn Statement in December 2013, the Chancellor, George Osborne, confirmed that the allowance would be introduced from April 2015 ([HC Deb 5 December 2013 c1111](#)).

<sup>7</sup> [HC Deb 19 March 1985 cc 794-795](#)

Mr Lawson anticipated that the second Green Paper on personal taxation would be published later that year, so that it would be possible to legislate in 1987, and have the new system in operation by the end of the decade. As it transpired, divisions within the Cabinet resulted in the paper being published a year later.<sup>8</sup>

At this point it may be helpful to take a closer look at how the provision of personal tax allowances operated at the time. Single persons, both men and women, received the same single person's allowance to set against their income for tax. On marrying, a couple's joint income was taxed as the husband's, and both partners ceased to be eligible for the single person's allowance. In the case of the husband, his single allowance was replaced by the married man's allowance (MMA). In 1989/90 the MMA was worth £4,375, compared to the single person's allowance of £2,785. The MMA was 'transferable', in the sense that it was given to the husband, even if he did not work, who used it to claim against income earned by his spouse (income which was, of course, counted as his own, for the purposes of tax).

Married women who did not work did not receive any allowance. Those who did work received the wife's earned income relief (WEIR). When this was first introduced in 1920, it was equal to the difference between the MMA and two single person allowances. In 1942 the WEIR was increased to the level of the single person's allowance, putting working couples at a distinct advantage. This allowance would be added to their husband's MMA when calculating the total earnings a couple could receive tax-free: in 1989/90 this was £7,160. By comparison, if a couple were not married, their total allowances would be £5,570.

As its name suggests, the WEIR did not cover savings income. As a result, the tax system strongly penalised those married couples in which the wife had had to give up work to have, and look after, children, yet contributed to the household finances with savings of her own. However, the system encouraged marriage, being more generous to working married couples than to unmarried couples.

The position for these three types of family situation is summarised below, using figures for 1989-90:

<b>Combined value of personal allowances</b>	
• Single person	£2,785
• Two unmarried people	£5,570
• Couple in which husband only works	£4,375
• Couple where at least wife works	£7,160

Clearly taxing people as separate individuals, irrespective of whether they were husbands or wives, meant ending the MMA. Husband and wife would then receive the same personal allowance, to claim against tax charged on their own income. However, abolishing the MMA without compensation would have resulted in severe hardship for very many families. In particular, married couples in which the wife did not work, and had no earned income, would lose a great deal.<sup>9</sup> The 1986 Green Paper argued that allowing individuals to transfer their personal allowance to their partner, when they themselves had no use for it, could overcome these problems at a stroke.

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<sup>8</sup> *The Reform of Personal Taxation* Cmnd 9756 March 1986

<sup>9</sup> The value of the family's combined tax allowances would have dropped from £4,375 to £2,785.

In the event, the Government received representations on the 1985 Green Paper from around 70 organisations and 400 individuals.<sup>10</sup> Though the principle of independence set out in the Green Paper received much support, the principle of transferability was criticised on four grounds: for being too expensive, for being administratively complex, for discouraging women from working, and for compromising women's rights to financial privacy.

An objection on the grounds of cost was based on the assumption that reform would only be politically feasible if few taxpayers lost out from the change. The Green Paper had noted "it is most unlikely that the Government would want to implement the reform except in such a way that no couple would suffer a reduction in cash terms in their total allowances during the period of the change."<sup>11</sup> If one assumed that all individuals were paid the single person's allowance - worth £2,785 in 1989/90 - then two earner couples would see a cut of £1,590 from their combined allowances (ie, a rise of over £375 in tax, if they were basic rate taxpayers). To avoid this, the Government would have to set the new single person's allowance, payable to all individuals, married or single, considerably higher than before. At the time the Institute for Fiscal Studies estimated that this would cost in excess of £4 billion.<sup>12</sup>

A second objection was that a transferable system would be administratively complex. It would require tax offices to keep track of relatively small incomes, of either husband or wife, should one partner have insufficient income to use their whole allowance, and choose to transfer part of it to their spouse. If both partners continued to be taxed under the PAYE system, then changes in the tax code of one spouse would have to be related directly to changes in the code of their partner. This is because PAYE works on a cumulative basis. The tax deducted by an employer at the end of each month is the exact sum required for that month, taking account of all earnings received and tax paid in the tax year up to that date. If these tax code adjustments were left to the end of the tax year, then the tax authorities would have to collect quite large lump sums from husbands, typically, whose wives had started to work during the past twelve months. Though this might be less complex, undoubtedly it would be unpopular.

Furthermore transferable allowances would create a strong disincentive for women to work. Under the old system, should a woman decide to go out to work, she would receive the WEIR, and the first £2,785 of her income would be tax-free. Her decision to work did not affect her husband's net income. With transferable allowances, this is not the case. As soon as a wife decides to work, taking part, or all, of her own tax allowance back from her husband, her husband's tax liability rises. In effect, every pound contributed to household income by a wife's wages is taxed at the marginal rate of tax.

The final criticism made was that transferable allowances compromised the right to privacy, the main reason for undertaking this reform. As each person's net income was directly dependent on what their partner was earning, then a spouse whose partner claimed just part of their allowance could easily calculate their partner's exact income. In addition, should a wife or husband go out to work, the use of their transferable allowance would automatically cut their partner's net income, an income which their partner might see as their own. The potential for family discord, it was suggested, was significant, and should be avoided.

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<sup>10</sup> HL Deb 3 February 1994 c104WA

<sup>11</sup> "Foreword" in *The Reform of Personal Taxation* Cmnd 9756

<sup>12</sup> IFS, *Taxation of Husband & Wife*, March 1986 p1

One related argument, put forward by the Equal Opportunities Commission among others, was that transferable allowances did not target real need. The old system 'recognised' marriage, assuming it came with real financial penalties. This was no longer the case. The sheer fact of getting married did not, in itself, lead to a fall in a couple's joint income; consequently, marriage should not be subsidised through the tax system:

Where marriage in contemporary society does have a bearing on the tax system lies in the likelihood of the subsequent effect that marriage has on the earnings capacity, and therefore taxable capacity, of women because of the career interruption caused by childbirth and the care of young children. This is where the major burden of dependency in contemporary society falls, which it is legitimate for the tax system to recognise. The most convenient, direct, and least costly way of doing so is, as the Commission has consistently argued, to use the revenue saved by the abolition of the Married Man's Allowance to provide increased Child Benefits.<sup>13</sup>

In his memoirs Nigel Lawson recalled that he had been taken aback by the strength of opposition to transferable allowances:

Some women, whose support I had hoped for, argued that transferable allowances would destroy all the gains to privacy they and I both sought, since husbands and wives would still have to reveal their incomes to each other to decide which of them should have the allowance. This surprised me, since the wife for whom privacy was important could always purchase it cheaply enough by letting her husband keep the transferable allowance.<sup>14</sup>

Determined to have a scheme up and running before the next election, in his 1998 Budget Mr Lawson announced what was, in his words, a 'half-way house'.<sup>15</sup>

From the start of the 1990/91 tax year, a husband and wife would be taxed independently on income of all kinds. All taxpayers, male or female, married or single, would be entitled to the same personal allowance, available against all income, whether from earnings, pensions or savings. This was to be set at the same level as the single person's allowance. An addition would be made to this allowance for taxpayers aged 65 or over; a second addition would be made for taxpayers aged 75 and over. The extra allowance would be progressively withdrawn for taxpayers with an income above a set limit.

A new married couple's allowance (MCA) would be introduced, replacing the MMA, equivalent to the gap between the new single allowance and the MMA, and going - in the first instance - to the husband, to ensure that his tax threshold would not fall. As with the new personal allowance, two age-related additions would be made where one or both spouses were 65-74 years old, and where one or both were 75 or over. Again, these additions would be withdrawn for incomes above a set limit. The WEIR was to be abolished. In addition married persons would be taxed independently on their capital gains.

None of the arguments for or against transferable allowances have changed significantly since 1987. A system of transferable personal allowances is best at promoting certain policy goals: giving fiscal encouragement to marriage, recognising a legal duty of one partner to provide for the other, and, promoting a family situation where one partner stays in the home.

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<sup>13</sup> Equal Opportunities Commission, *Taxation Without Discrimination*, September 1986 p7

<sup>14</sup> Nigel Lawson, *The View From No. 11: Memoirs of a Tory Radical*, 1992 pp 884-885

<sup>15</sup> HC Deb 15 March 1988 cc 997-998

However, the system is relatively poor at delivering other policy goals: promoting financial privacy between couples, encouraging both partners to work, and minimising administration costs. Furthermore, the cost would be considerable: in a debate on this issue in June 2011, the Exchequer Secretary, David Gauke, suggested that allowing a spouse to transfer any unused part of their allowance to their partner would cost over £4 billion.<sup>16</sup>

## 2 Abolition of the married couple's allowance

In his March 1993 Budget, the then Chancellor Norman Lamont proposed that the MCA should be 'restricted' to 20% from April 1994. At this time the 'basic' MCA for couples under 65 was £1,720 so that it was worth £688 for those whose marginal rate was 40 per cent, but only £344 for those whose marginal rate was 20 per cent. Restricting the allowance would mean all eligible taxpayers receiving a credit worth £344 - 20% of the allowance - as a deduction from their final tax bill. Justifying this measure, Mr Lamont said, "there is no good reason why an allowance intended to recognise the responsibilities of marriage should give least to those on low incomes and most to those right at the top of the income scale."<sup>17</sup> In the November 1993 Budget the then Chancellor, Kenneth Clarke, confirmed this change, and went on to announce that the MCA would be further restricted to 15 per cent from April 1995.

Provision to restrict the MCA made in section 77 of the *Finance Act 1994*. When this was debated at the Committee stage of the Finance Bill, there was general support for the principle that the MCA should be worth the same amount to all taxpayers. Diana Maddock MP argued that the MCA "is a relic of the days when a husband was taxed on his wife's income as well as on his own. It contravenes the principle that marriage should be tax neutral. The allowance does not target need: a married couple, both employed, without children, would usually be better off [than if they lived] separately." The then Chief Secretary to the Treasury, Michael Portillo, concurred with this argument, though would not comment about the future of the MCA:

[Mrs Maddock] is right, at least concerning the breadth of that allowance, because it is given to people whether or not they are in work or have children. However, it has a value for some people and it recognises the responsibilities of marriage. I do not want to make any commitment for the future or to give any impression that the Government are determined to continue the process of reducing the allowance. That is a decision to be taken from time to time according to the prevailing circumstances.<sup>18</sup>

Even so, when Mr Clarke announced the two stage restriction to the MCA in his Budget speech, he implied that the allowance might no longer be needed: "Now that husbands and wives are taxed independently - one of the best taxation reforms in recent years - the married couple's allowance is a bit of an anomaly."<sup>19</sup>

Some commentators argued that these changes were undermining marriage,<sup>20</sup> and in 1995 this was a major theme to a paper – *Farewell to the family?*<sup>21</sup> - which attracted quite a lot of

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<sup>16</sup> HC Deb 28 June 2011 c877

<sup>17</sup> HC Deb 16 March 1993 c 182

<sup>18</sup> SC Deb (A) 22 February 1994 c344, c348

<sup>19</sup> HC Deb 30 November 1993 c933

<sup>20</sup> for example, "Why the Tories don't value the family", *Sunday Telegraph*, 5 December 1993; "The party of the family? You're joking", *Guardian*, 10 December 1993

attention at the time. The author suggested reductions in the MCA had had the biggest impact on middle-income earners, those she saw as most influential in shaping popular opinion and, in particular, attitudes to single parenthood. She went on to argue that by withdrawing the MCA, and continuing to provide significant social security benefits to single mothers, the Government was contributing to the erosion of family life. Certainly restoring the value of the MCA would go some way to help married parents, but it remains a rather inefficient way of doing so, rewarding richer parents more than poorer ones, and giving tax relief to couples, irrespective of whether they have children or not. Whether the MCA plays a symbolic role, shaping attitudes to marriage, is perhaps unverifiable.

In his 1999 Budget speech the then Chancellor Gordon Brown announced that the MCA would be abolished from 6 April 2000.<sup>22</sup> Only couples who had reached the age of 65 by this date would be able to continue to claim it. The additional personal allowance would also be withdrawn at this time. The allowance was set equal to the MCA and given to lone parents – whether single, divorced, or widowed – caring for one or more children under 16 (or over 16 and in full-time education or in an apprenticeship of at least two years' duration).<sup>23</sup>

In his Budget the following year the Chancellor confirmed this change, and announced that a new allowance – the children's tax credit (CTC) – would be introduced from April 2001, for families with one or more children under 16.<sup>24</sup> The credit would take the form of an allowance – set at £5,200 for 2001/02 – for which relief would be given at 10 per cent: in effect those families eligible to claim the CTC would be able to cut their annual income tax bill by up to £520. In April 2002 the credit was increased in line with inflation – to £590 for 2002-03 – and an additional 'baby' rate was paid for the first year of a child's life – equivalent to a further credit of £10 a week.<sup>25</sup>

The Labour Government's purpose in introducing the new credit was, as the Chancellor stated in his March 1999 Budget speech, to "substantially increase support for families with children", and to do so, "in the fairest way" – two principles governing its approach to the taxation of families.<sup>26</sup> As a consequence eligibility for the CTC was based on whether someone was caring for a child – rather than their marital status – and the value of the credit was tapered for higher rate taxpayers (by £1 for every £15 of income above the higher rate threshold, until entitlement to the credit was exhausted).

To ensure that the taper operated in the way intended, if one partner in a couple was a higher rate taxpayer, they were *obliged* to claim the CTC for their household, and could not transfer it to their lower earning partner. In contrast to the CTC, the MCA was worth the same cash amount to all taxpayers, irrespective of their income. As the Chancellor went on to say in his Budget speech, "it is in fulfilment of [these] two principles that the children's tax credit will be tapered away for the higher-earning family where there is a top-rate taxpayer."<sup>27</sup>

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<sup>21</sup> Patricia Morgan, *Farewell to the Family? Public Policy & Family Breakdown in Britain and the USA*, Institute of Economic Affairs January 1995

<sup>22</sup> HC Deb 9 March 1999 cc 182-183. For 1999-2000 the basic MCA was £1,970 restricted to 10 per cent.

<sup>23</sup> Married parents in this situation whose partner was incapacitated were also entitled to claim this allowance.

<sup>24</sup> HC Deb 21 March 2000 c871

<sup>25</sup> The 'baby credit' was first announced in the 2001 Budget (HC Deb 7 March 2001 c 305).

<sup>26</sup> HC Deb 9 March 1999 c183

<sup>27</sup> HC Deb 9 March 1999 c183

At the time there was some criticism that the CTC was not tapered with reference to family income, potentially penalising single earner couples on the same income as dual earner couples. Following consultation in 2000/01 the Chancellor announced in his 2002 Budget that a 'child tax credit' would be introduced from April 2003, to replace the support provided by the CTC and the child elements of four other benefits/credits: income support, jobseeker's allowance (income-based), working families' tax credit (WFTC) and disabled person's tax credit (DPTC).<sup>28</sup> Awards for the new credit would be based on the income of the family, and to be paid to the main carer. A second new credit – the 'working tax credit' – was introduced in April 2003 as well, merging in-work support provided through the WFTC and DPTC.<sup>29</sup>

The basic MCA was abolished under section 31 of the *Finance Act 1999*. When this provision was scrutinised, at the Committee stage of the Finance Bill that year,<sup>30</sup> the then Paymaster General, Dawn Primarolo, set out the Labour Government's position on the tax treatment of marriage:

My right hon. Friend the Chancellor made it clear in his Budget speech that family life is the foundation of our society. Our first principle is support for the family, and the interests of children must be paramount. Many points made in both debates this evening have been about the married couples allowance. It was originally provided for married men, from 1918, in recognition of the fact that their wives were not in paid employment after marriage. That lasted until just before the second world war when the Government of the day advanced tax policy to encourage married women to stay in the labour market or return to it.

After years of amendment and change, the present Government inherited a married couples allowance that is, in fact, restricted neither to marriage nor to couples. Nor, indeed, is it strictly an allowance, as it is a tax credit paid at the same flat rate to married couples, single parents and unmarried parents who live together. Far from recognising marriage ... the allowance is so confused that it can even be paid twice--at the full rate to both partners in the year of separation or divorce. A married couples allowance that can pay more for separation or divorce surely cannot be said to uphold the institution of marriage.<sup>31</sup>

One issue the Minister did not specifically address in her comments was the position of those married couples who turned 65 relatively soon after April 2000. For 2000/01 the MCA for couples aged 65-74 was equivalent to a tax credit worth just over £518. In effect, this is what couples who turned 65 after 6 April 2000 lost – provided they could make full use of the credit. Clearly withdrawing the allowance in this way protected poorer pensioners, who may assumed, quite understandably, that this relief would be maintained.

However, providing the allowance for couples reaching 65 in future years might be thought unfair - especially to those reaching this age unmarried. For these taxpayers, it might seem perverse to provide additional help for married pensioners, when the original purpose of the married man's allowance (the forerunner of the MCA, introduced in 1918), was to acknowledge the costs in marriage: ie, that it was the norm at that time for a woman to give up work when she married to look after the children she and her husband looked forward to having.

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<sup>28</sup> HC Deb 17 April 2002 c587. For the background on this issue see *The Tax Credits Bill*, Library Research paper 01/110 5 December 2001.

<sup>29</sup> Guidance on these tax credits is published at: <http://www.hmrc.gov.uk/taxcredits/>

<sup>30</sup> HC Deb 28 April 1999 cc 349-403

<sup>31</sup> HC Deb 28 April 1999 cc 395-396

### 3 Proposals by the Centre for Social Justice

In its 2001 General Election manifesto, the Conservative party proposed that, “if someone is not using all or part of their personal tax allowance they will be able to transfer it to a working spouse if they have children under 11 or receive Invalid Care Allowance in respect of a relative.”<sup>32</sup> Following Labour’s victory in the election there was some speculation that the idea would be dropped, as it had proved both complicated and electorally unsuccessful.<sup>33</sup> Nevertheless, the idea was revived in the work of a Conservative think tank, the Centre for Social Justice (CSJ), established by the former leader of the Conservative Party, Iain Duncan Smith, in early 2004, with the declared aim of “seek[ing] effective solutions to the poverty that blight parts of Britain.”<sup>34</sup>

In a report by the Centre’s ‘Social Policy Group’, published in July 2007, the authors looked at five causes of poverty – family breakdown, educational failure, economic dependence, indebtedness and addictions. The Group argued that the UK has “one of the highest levels of family breakdown in Europe”, and that the welfare system should be reformed “to strengthen the family”: principally, by removing “the fiscal disadvantages to couples staying together” – the so-called “couple penalty.” In addition the Government should “introduce fiscal support for married couples” allowing them “to transfer their income tax personal allowance to their spouse if they are not making use of it.”<sup>35</sup>

The first of these proposals – the ‘couple penalty’ – relates, not to income tax system as such, but to the design of tax credits; in essence, couples with children and lone-parent families are entitled to the same amount of tax credits if they have the same gross incomes. This issue is not explored in this note, but an explanation of how this ‘penalty’ operates was provided by the Institute for Fiscal Studies, in their 2007 *Green Budget*, and this is reproduced overleaf:

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<sup>32</sup> *Time for common sense*, 2001 p7. A PQ estimated that this proposal would cost £1.2 billion (HC Deb 5 June 2000 cc 75-6W).

<sup>33</sup> “Tories abandon tax breaks for married parents”, *Financial Times*, 16 October 2001

<sup>34</sup> The Centre’s work is collated on its site at: <http://www.centreforsocialjustice.org.uk>

<sup>35</sup> *Breakthrough Britain: Overview*, July 2007 pp 10-11

## What is the “couple penalty”?

Institute for Fiscal Studies, *Green Budget 2007*, January 2007 pp 244-5

[A further criticism of the support given to families through the tax system] is that the current structure of tax credits and means-tested benefits treats some couples with children less generously than if the parents live apart (often described as reflecting a ‘couple penalty’ in tax credits, and this shorthand is used in this chapter). The existence of a ‘couple penalty’ is usually shown by comparing how much state support a lone parent and a single adult without children would be entitled to if they lived apart with what they would be entitled to if they lived together; many (but not all) would be entitled to less if they were living together than if they were living apart.<sup>1</sup>

The existence of such ‘couple penalties’ is chiefly due to the fact that couples with children and lone-parent families are entitled to the same amount of tax credits if they have the same gross incomes (this criticism, therefore, is due to the same design feature of tax credits that motivated the first criticism above, that in order to be better targeted at reducing child poverty, tax credits should do more to reduce the risk of working poverty amongst couple families). Entitlement to both the WTC and the CTC does not take explicit account of the number of adults in the family, but does depend upon the joint income of the couple. This means that, if a lone parent who is already entitled to WTC and CTC starts to cohabit, that family’s entitlement to tax credits will fall because of the extra income brought in by the new partner. Furthermore, the new partner will, in general, cease to be entitled to any means-tested support that he/she received when living alone.

In practice, the existence of a ‘couple penalty’ depends on the detailed circumstances of both the lone parent and the potential partner, and the assumptions made about how working and living arrangements might change when adults start or stop living together. It should also be stressed that some adults would experience a ‘couple bonus’ if they were to live together. But the design of tax credits does make it more likely that ‘couple penalties’ exist for families with children than for adults without children: this is because a couple without children is entitled to more WTC than a single adult without children with the same gross income.

It is difficult to find robust evidence that this situation genuinely affects how people make their living arrangements:

- By comparing the circumstances of women who live with a partner with those who do not, a recent paper estimated that a £100/week ‘couple penalty’ from the tax and benefit system reduces the probability of a woman having a partner by about 7 percentage points.<sup>2</sup>
- That same paper estimated that WFTC led to more couples with children (by financially encouraging lone parents to cohabit), but this result does not match that of an earlier paper, which estimated that the reverse had happened.<sup>3</sup>
- It has been reported in the media that some advice centres are asked to undertake ‘better off’ calculations for people considering cohabiting but who are concerned that they would be much worse off if they did so.

But there is good evidence that the situation at least affects how people report their living arrangements:

- During 2004–05, around 200,000 more lone parents were receiving tax credits (or the equivalent in means-tested benefits) than official surveys estimate to be living in the UK, in part, it was suspected, because some adults who were cohabiting were claiming state support as lone parents.<sup>4</sup>
- HMRC estimates that £305 million was paid out incorrectly in tax credit awards in 2003–04 because 90,000 couples incorrectly claimed tax credits as lone parents (whether through error or intentional fraud).<sup>5</sup>

Of course, even if the evidence that this aspect of the tax credit system distorts behaviour (and therefore leads to inefficiencies) is weak, it might be thought valid to criticise it purely on equity grounds – namely, that it is unfair to lone parents that they see such a considerable reduction in state support when they begin to cohabit.

**Notes:**

<sup>1</sup> See 'Tax credits leave couples worse-off living together', CARE press release dated 24 November 2006. Past work on this issue includes: Civitas, *The Lone Parent Trap*, London, 2002; J. Kirby, *The Price of Parenthood*, Centre for Policy Studies, London, 2005; and 'Government paying tax credits and benefits to 200,000 more lone parents than live in the UK', IFS press release dated 12 March 2006. An additional 'couple penalty' can arise from differential access to benefits in kind, notably social housing.

<sup>2</sup> Around 70% of women aged 20–55 live with their partner: see D. Anderberg, 'Tax credits, income support and partnership decisions', paper presented at RES conference, University of Nottingham, March 2006.

<sup>3</sup> M. Francesconi and W. Van der Klaauw, 'The consequences of in-work benefit reform in Britain: new evidence from panel data', ISER Working Paper 2004-13, found that the WFTC reform meant that lone mothers were less likely to start to cohabit (a reduction of 2 percentage points), but Anderberg (op. cit.) estimated that the WFTC reform created around 50,000 new couples by increasing the partnership rate by 0.5 percentage points.

<sup>4</sup> M. Brewer and J. Shaw, *How Many Lone Parents Are Receiving Tax Credits?*, IFS Briefing Note 70, 2006 (<http://www.ifs.org.uk/bns/bn70.pdf>).

<sup>5</sup> HM Revenue and Customs, *Child and Working Tax Credits: Error and Fraud Statistics 2003–04*, 2006 ([http://customs.hmrc.gov.uk/channelsPortalWebApp/downloadFile?contentID=HMCE\\_PROD1\\_025711](http://customs.hmrc.gov.uk/channelsPortalWebApp/downloadFile?contentID=HMCE_PROD1_025711)).

Following the CSJ report, the removal of this 'penalty' was adopted by the Conservative Party as official policy,<sup>36</sup> and, following the 2010 General Election, the agreement underpinning the Coalition Government confirmed the new Government would "bring forward plans to reduce the couple penalty in the tax credit system as we make savings from our welfare reform plans."<sup>37</sup> In October 2013 the Government started the introduction of Universal Credit (UC), which is to replace a range of means-tested benefits and tax credits for working age families.<sup>38</sup> In its impact assessment of the new credit, the Department for Work & Pensions noted that in its design, UC "takes the first steps to address the penalty on couples imposed by the benefit system by rewarding families with children."<sup>39</sup>

Turning back to the CSJ's 2007 report on family breakdown, and the case it made for transferable allowances, the authors argued that "support for marriage cannot simply be dismissed as giving money to those who are already comfortable", suggesting that the married couple's allowance was a poor test case for tax relief, because an equivalent tax allowance was given to lone parents with dependent children:

Couples who get married are on average more committed and stable than those who cohabit but marriage also helps to cement relationships by altering the behaviour of those who get married<sup>40</sup> (ie. we are not just describing selection effects). Since marriage is a valuable social institution there is a strong case for supporting it. Politicians and other commentators dismissively refer back to the time when marriage was recognised in the tax system with the married couples' tax allowance (which is now available only for couples in which one of the partners was born before 1935).

<sup>36</sup> Conservative party, *Repair : plan for social reform*, 2008 p41. The party's 2010 General Election Manifesto made the same commitment (*Invitation to join the Government of Britain*, 13 April 2010 p41).

<sup>37</sup> HM Government, *The Coalition: our programme for government*, 20 May 2010 p19

<sup>38</sup> For more details see, *Universal Credit: an introduction*, Library standard note SN6469, 9 November 2012

<sup>39</sup> DWP, *Universal credit: impact assessment*, December 2012 para 39

<sup>40</sup> As *Fractured Families* [Social Policy Group, December 2006] states, on p127, 'Socio-economic selection effects undoubtedly account for part of the apparent benefits and protections afforded to married couples.' But, as Wilson & Oswald (2005) demonstrate in their review of longitudinal studies, marriage brings with it a causal component that is not accounted for by socio-economic background factors.' [Wilson, C. M., & Oswald, A. J., 2005, 'How Does Marriage Affect Physical and Psychological Health? A Survey of the Longitudinal Evidence,' IZA Discussion Papers 1619, Institute for the Study of Labor (IZA).]

They argue against the ability of a tax allowance to act as a support for marriage, on the grounds that family breakdown rose during the period over which the MCA was available to all married couples.

However, using the MCA as a reference point for a positive tax treatment is flawed. That is because the allowance was never in reality much of a financial support for marriage *per se* since the same amount of money was also available under another name, as the additional personal allowance, for lone parents or cohabiting couples with dependent children. Therefore the MCA itself was only a genuine financial bonus to married couples *without* dependent children and potentially greatly limited in its effect.<sup>41</sup>

The Group went on to explain how their proposal would work, and how much it would cost:

Since marriage is such a valuable social institution we recommend that an incoming government allow the transferring of tax allowances [a 'TPA'] between married couples. We envisage that the TPA would be confined to married couples and not available to cohabiting couples. The allowance is intended to support the institution of marriage because of its proven advantages to children and the wider society (for example, married couples play a key role in caring for elderly relatives) ... Statistics indicate that cohabitation is inherently less stable, so there is not the same justification for recognising it in the tax system. Neither is it a relationship of legal dependence, so extending the TPA to these couples would present significant practical difficulties for tax offices needing to ascertain the exact status of informal relationships (as countries like Sweden have discovered).

#### **Costs and criteria**

In response to a request from this group, the Institute for Fiscal Studies has estimated the cost of a transferable tax allowance according to different criteria. Their estimates assume that the allowance applies only at the basic rate of taxation, due to be 20% in April 2008, and is equal to the existing personal allowance (set at £5,225 for 2007/8).

The IFS has estimated that the option of a transferable allowance

- For all married couples would cost £3.2bn;
- For all married couples, but where only half the personal allowance was transferred, would cost £1.6bn<sup>42</sup> (if there were not sufficient funds initially. Such an option would allow an at-home spouse to earn around £2,500 before being liable for tax.<sup>43</sup>)
- For all married couples with dependent children or receiving Carers Allowance, would cost £1.5bn;
- Given only to married couples with children under 6 would cost £0.9bn

A TPA of the full personal allowance amount would provide only modest financial support for marriage - £20 a week to those making use of it – encouraging rather than incentivising it.

The main rationale for the allowance would be to provide symbolic recognition of the institution of marriage. It would indicate that marriage is valued because of its benefits

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<sup>41</sup> *Breakthrough Britain: Volume 1 – Family Breakdown*, July 2007 pp 64-65

<sup>42</sup> The 2008/09 cost of this year's tax credit package was £1.6 billion.

<sup>43</sup> Although this is not our recommendation, we acknowledge its benefits - the Equal Opportunities Commission drew our attention to the disincentive of a TPA for usually non-earning spouses earning a little extra money for the household, eg in the run up to Christmas. Not transferring the whole allowance would allow them to do this without having to pay tax on the first pound earned.

to children and the wider society. It would make it easier for a mother or father to remain at home to look after their children whilst the other spouse worked, or for one partner to do voluntary work within the community, look after elderly or disabled members or manage a home in a way that enables partners and families to have more undivided time together. We would thus see this as a measure with the potential to increase family stability and improve the quality of family life.<sup>44</sup>

Further to the report being published, a written answer gave more estimates of the costs of transferable allowances:

**Mr. Laws:** To ask the Chancellor of the Exchequer (1) what his most recent estimate is of the costs of making the personal allowance transferable between couples; and if he will make a statement; (2) what estimate he has made of the total financial effect on (a) married couples with children and (b) married couples without children of making the personal allowance transferable; and if he will make a statement; (3) what estimate he has made of the proportion of individuals who are married who would benefit from a transferable personal tax allowance; and if he will make a statement.

**Jane Kennedy:** Due to the complex nature of this question the following estimates should be treated with caution. These estimates exclude any behavioural response to the change, which could be significant given the magnitude of the change.

The most recent estimate of the costs of making the personal allowance transferable between all couples, married and unmarried, is approximately £4.1 billion in 2007-08. The cost for married couples with children of making the personal allowance transferable is estimated to be around £1.5 billion in 2007-08. The cost for married couples without children of making the personal allowance transferable is estimated to be around £1.9 billion in 2007-08. It is estimated that 38 per cent. of married couples would benefit from a transferable tax allowance in 2007-08.

The estimates were calculated using the Department's tax and benefit model (IGOTM) based on data from the Family Resources Survey.<sup>45</sup>

## 4 Debate on the case for transferable allowances

Following the publication of the CSJ's report, the Conservative Party leader, David Cameron, said that he welcomed the proposal for transferable allowances in principle:

With the report ... recommending changes to the tax and benefit system which would allow spouses to transfer unused tax allowance to their partner ... Mr Cameron indicated a strong welcome for the group's approach. "Britain is almost the only country in Europe that doesn't recognise marriage in the tax system," he said ... "Our support for families and for marriage puts us on the side of the mainstream majority, on the side of a progressive politics, on the side of change that says we can stop social decline, we can fix our broken society, we can and will make this a better place to live for everyone ... If Gordon Brown wants to play political games with this, let him. If he wants to defend the anti-marriage bias in our tax and benefits system, good luck to him. But he is on the side of the past, and on the side of social failure."<sup>46</sup>

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<sup>44</sup> *Breakthrough Britain: Volume 1*, July 2007 pp 70-1

<sup>45</sup> HC Deb 25 July 2007 c1188W. See also, HC Deb 5 January 2010 cc82-3WA

<sup>46</sup> Conservative Party press notice, *Fixing our broken society*, 10 July 2007

For its part, the Labour Government argued that the proposal would be expensive and inefficient:

Duncan Smith told GMTV on Tuesday that the plan aimed to recognise marriage in the tax system. "It's about re-establishing a balance," he said. He added: "What we're saying is the system at the moment is jiggged against married couples and we want to set that right, not to give lone parents a bad deal, because they won't get a reduction." The government rejected the proposals, with Cabinet Office minister Ed Miliband warning the new tax system would damage children. "I don't think that paying £20 a week to all married couples in this country - which would cost billions of pounds and I've got no idea how Iain would pay for it - is the right thing to do," he told BBC Radio 4's Today programme. "What we should be doing is supporting children. We shouldn't be saying because of the decisions your parents have made, whether a spouse has left another, that children should lose out, and whatever Iain says that is the implication." While the government believed in the family as a "bedrock of society", Miliband said it was not "right for politicians to come on and preach".<sup>47</sup>

At Treasury Questions on 12 July 2007 the then Chancellor, Alistair Darling, argued that the problem with an allowance for married couples was that it "throws up all sorts of anomalies":

For example, if the husband in a couple is killed in a tragic road accident, his widow and children will be left without support—so when we think through the consequence, we see that bringing back the allowance is not the right thing to do. Helping families with children, and the fact that the working families tax credit has lifted more than 600,000 children out of poverty, are things that we should keep in the front of our minds.<sup>48</sup>

Prior to the report's publication, the then Prime Minister Tony Blair, made a similar argument, saying "it's hard to see why you should want to support a married couple without children rather than a lone parent whose husband may have left her through no fault of her own and who is trying to bring up children ... Of course, we should try to support marriage in whatever way we can, but to reduce support for lone parents isn't justified."<sup>49</sup>

There were a variety of views to the report, and the idea of transferable allowances, from charities involved in supporting couples and families, as the BCC reported:

The Family and Parenting Institute acknowledges that the figures support the view that financial incentives alone will do little or nothing to change the marriage or divorce rates. Its spokesman Michael Scanlan says it does, however, support the idea of financial support for parents who stay at home to look after children because "there's no greater predictor of family breakdown than poverty". But he says the institute, a charity not linked to any political party, believed that all families, married or unmarried, should benefit from such a scheme. "We're four square behind the institution of marriage and figures suggest that it's something that three out of four under-35s aspire to. And we would welcome financial support for parents at home - but if it's only for married parents then we feel it would discriminate against other families. Why should children be disadvantaged because of the perfectly reasonable decisions their parents have made about the way they live their life?"

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<sup>47</sup> "Tory review backs marriage incentive", *e-Politicx*, 10 July 2007

<sup>48</sup> HC Deb 12 July 2007 c1591

<sup>49</sup> "Blair attacks pro-marriage Tory tax break", *Sunday Times*, 4 March 2007; see also, "PM attacks Tory 'moralising' over marriage", *Independent*, 12 July 2007

Relate, which offers relationship counselling, is more dismissive of the Conservatives' proposal. Jenny North, head of public policy, says it is "gesture politics" and "naive" to think that financial incentives would keep couples together. "It's true that married couples stay together longer than co-habiting couples. But it tends to be better-off couples who get married and £20 a week will make very little difference to them. It will benefit people who are already quite well off." She also pointed out that widows, widowers, and parents who had been left by their spouse would be discriminated against.<sup>50</sup>

In an editorial the *Guardian* argued that the proposal was not "the right priority":

Marriage is one choice that people make that would be made financially more attractive. They could get tax breaks worth up to £6bn. That is big money, and - even given reasonable concerns about how some couples fare with the current tax credits - it is not the right priority, for children raised by lone parents still face twice the risk of poverty. One effect of the plan would be to reward another choice made by some married people, namely to stay at home - spouses, with or without children, who wanted to do this would be free to pass their tax allowance to the breadwinner.<sup>51</sup>

The *Daily Telegraph* argued that that "Mr Cameron and Mr Duncan Smith have cleverly cut the ground from under almost all the criticisms that might have been made of their position":

They have not presented it as a moralising judgment on single parenthood, but as a simple statement of reality and feasible remedy. They have not proposed that single parents should receive less help, which might have smacked of vindictiveness, but rather that married couples should get more. They do not claim that marriage is some sort of social panacea but that it must be seen as central to a wide programme of initiatives to deal with addiction, debt and welfare dependence ... Some adversaries, such as Ed Miliband, the Cabinet Office Minister, have alleged that for a government to support marriage would be an unacceptable moral interference in private life. But why should favouring married couples be an unacceptable interference when favouring single ones, as this Government does, is not?<sup>52</sup>

The charity, One Parent Families, welcomed some of the report's proposals – regarding relationship education, joined-up services for separated families and investment in children's early years – but was critical of the plan for transferable allowances. Chief Executive, Chris Pond, commented: "using tax breaks to support or encourage marriage is a blunt instrument which has a history of failure and would be hugely expensive, benefiting better off couples rather than the poorest families."<sup>53</sup>

In a piece in the *Financial Times*, the economics editor of the paper – Chris Giles – argued that the evidence that the decision by couples to get married had positive consequences, both for the individuals themselves, their families, and society as a whole, was ambiguous:

Married people are healthier, happier, richer and live longer - but those associations do not prove that marriage is the cause of these benefits. Economists have ways to disentangle causation from correlation. In the case of marriage, they do so by studying people for a long time, comparing those who get hitched with similar individuals who stay single. An extensive survey of this evidence, conducted by Chris Wilson of the

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<sup>50</sup> "Love, marriage and... tax breaks?", *BBC News online*, 10 July 2007

<sup>51</sup> "Leader: Love and low taxes", *Guardian*, 11 July 2007

<sup>52</sup> "Leader: Wooing the voters by supporting marriage", *Daily Telegraph*, 11 July 2007

<sup>53</sup> One Parent Families press notice, *Single parent charity condemns Tory family stance*, 10 July 2007

University of East Anglia and Andrew Oswald of Warwick University, reached the clear conclusion that marriage was, indeed, good for the mind and the body. For men, they concluded, "the longevity effect of marriage may even offset the consequences of smoking". But they recognised these results were not conclusive proof of the benefits of marriage because evolutionary biology would suggest that humans looking for a mate may seek out people who already have a greater potential for happiness - something that researchers find impossible to measure.

There are other problems with the premise that marriage is always good. Bad marriages are not and Prof Oswald also shows that escaping an unfulfilling union through divorce makes us happier, if poorer. This research was not cited by the policy group, nor was research by Professor Ian Walker of Warwick University that shows that while children in broken homes are less happy and have worse outcomes, this is not directly related to marriage breakdown. Some other aspect of living in these families made the children simultaneously un-happy and likely to do badly at school.

Mr Giles went on to argue that, putting this question to one side, there was "previous little evidence" that financial incentives, such as tax relief for married couples, had any impact on the incidence of marriage:

The next problem for an economist is that it is a distinctly moot point that financial incentives encourage marriage. There is precious little evidence that they do so. Indeed dissenters from the proposition point out that the big rise in divorces came when Britain had a large "married man's allowance" in the late 1960s and early 1970s. It is also by no means clear that a marriage spurred by the availability of a £20 a week incentive would be as beneficial to the participants as those where the relationship itself was considered sufficient reward.<sup>54</sup>

Subsequently the Dept for Work & Pensions commissioned a review of the international academic literature in this area, which it published in March 2009: this concluded that "the actual impact that financial incentives have on family structure is contested. Analysts across countries and over time report mixed findings":

The evidence base for the UK is small. However, the international literature does provide some guidance on how to conduct analyses in this area. There is a need for UK research that is more up-to-date in terms of policies/programmes covered, that has the potential to provide estimates of longer-term impacts and has sufficiently large sample sizes to allow extensive sub-group analyses. Whilst there are studies finding significant impacts, these tend to be small and are countered by studies finding no relationship or the opposite effect. To the extent that some studies provide evidence of a welfare effect on family structure, its magnitude is often smaller than classical economic theory might predict. On balance the reviewed literature shows that there is no consistent and robust evidence to support claims that the welfare system has a significant impact upon family structure.<sup>55</sup>

In light of these findings the single parent charity, Gingerbread, published a report suggesting that "policies to promote one type of family over another using financial incentives are therefore likely to be ineffective and costly. Given the need for Government to allocate its resources carefully, particularly with current pressure on public finances we believe that the

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<sup>54</sup> "Benefits of marriage are debatable", *Financial Times*, 11 July 2007

<sup>55</sup> Bruce Stafford and Simon Roberts, *The impact of financial incentives in welfare systems on family structure*, DWP Research Report 569, March 2009 p6

best basis for doing so is family need and to alleviate poverty, a goal to which there is commitment across the political spectrum.”<sup>56</sup>

Turning back to the 2007 CSJ report, writing in the *Times*, the commentator Peter Riddell, suggested that the report raised issues far wider than simply the tax treatment of marriage:

[Discussion of the causes of social failure] ... leads into two tricky questions. First, how far should the State set up a model of desirable behaviour? Politicians of all parties get themselves tangled in knots here ... Statistically, a stable background is more likely to occur with married couples, but there are plenty of highly successful single parents. There is a fine line between saying that marriage is a good thing and appearing to discriminate: and public, even Tory, opinion is split on this issue.

Secondly, how far can the State itself produce outcomes? Mr Cameron’s mantra of social/shared responsibility involves government encouraging and allowing individuals and voluntary bodies to do good: for instance, by allowing parents and other providers to set up new schools with charitable status, akin to charter schools in the United States. Voluntary groups should be more involved in helping addicts and people back to work. The Duncan Smith report also suggests a host of tax and benefit changes: to reward marriage and put pressure on lone parents to work. Tax policy should be “a crucial element” in preventing a further rise in overall alcohol consumption, and preferably bringing it down. There will now be a lengthy public and party debate on the report. This needs to be about much more than marriage and the tax system. If Mr Cameron wants to reassert his party’s One Nation traditions, he needs to define much more precisely the role, as well as the scale, of the State.<sup>57</sup>

In the next months the Conservative Party published a policy paper making a *general* commitment to tax reform in this area: “Britain is the only country in the western world that doesn’t properly recognise marriage in the tax system; a Conservative government will ensure that we do. We will change tax system to make it more family-friendly and to ensure that marriage is recognised.<sup>58</sup> Similarly, in his speech to the 2009 party conference, the party leader, David Cameron, said the following:

I don’t live in some fantasy land where every family is happily married with 2.4 kids. Nor am I going to stand here and pretend that family life is always easy. But by recognising marriage and civil partnerships in the tax system and abolishing the couple penalty in the benefits system, we’ll help make it that little bit easier.<sup>59</sup>

In July 2009 the CSJ published a paper by its ‘Family Law Review’, which argued that it was an anomaly for there to be “no encouragement or endorsement through fiscal policy of marriage, despite the very considerable merits and benefits of marriage for children, for those who are married and the wider family, for the community and for the country.” The authors suggested that there “should be a government endorsement of the importance of marriage through fiscal policy, along the lines proposed in *Breakthrough Britain*” – that is, the Centre’s 2007 report which had proposed transferable allowances:

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<sup>56</sup> Gingerbread, *Single parents, equal families: family policy for the next decade*, December 2009 p25. The charity quoted above – One Parent Families – merged with Gingerbread in 2007.

<sup>57</sup> “This is about more than adding to the blessings of wedded bliss”, *Times*, 11 July 2007; see also, “The wedding planners”, *Sunday Telegraph*, 15 July 2007

<sup>58</sup> Conservative party, *Repair : plan for social reform*, 2008 p41

<sup>59</sup> Speech by David Cameron, leader of the Conservative Party, *Putting Britain back on her feet*, 8 October 2009

This abandonment of fiscal benefits towards marriage [that is, the abolition of the married couples allowance, and introduction of tax credits which ignore married status] has been at a time of increasing relationship breakdown within our country, including marriage breakdown. Undoubtedly many factors have created the relationship breakdown culture. Critics claim that an extra £20 a week will not save a marriage which is in difficulty. However we, and others, are not arguing that it will, or even that it should. The point is that the tax and tax credit rules actually discourage couples from coming together in the first place where one of them has children ...

As part of a joined up holistic message and endorsement by government of the importance of marriage to children, families and the country, there should be some benefit from the fiscal provision to those who are married. To do otherwise and simply ignore marriage and the substantial commitments made in childcare and the other marital advantages is to give an inconsistent message at best and detract from the other policies and proposals. We therefore consider that future fiscal policy should contain an endorsement of, and suitable provision for, marriage but the implementation of that endorsement, and consequential costs to the Revenue, should follow a number of the other reforms proposed by us in this report.<sup>60</sup>

Writing in the *Independent* at this time, the then Work & Pensions Secretary, James Purnell, suggested this approach simply stigmatised lone parents:

Marriage is an important institution, but we cross a dangerous line when we start saying that we will give tax breaks to a married couple but not to a lone parent, a widow bringing up her children, or cohabiting parents. Moreover, this policy won't work. People marry for love, not money. ... We will never lecture or stereotype single parents or use the tax system to signal that some relationships are more acceptable than others. The right way to help parents through the pressures they face is to help all families, and not to stigmatise any.<sup>61</sup>

Writing in the *Times*, Philip Collins argued that the CSJ had *assumed* a connection between marriage and happy families that fitted its preconceptions, and its case for providing married couples with tax relief, but it had failed to prove that this connection existed:

The Centre of Social Justice (CSJ) report says blithely that “those who are married are statistically more likely to be law-abiding”. How about “those who are law-abiding are statistically more likely to be married”? Is that any less true? Maybe someone in Mr Duncan Smith’s office pressed a button and deleted the word “happily” throughout. Of course people who are happily married tend to have better lives than people who are not. So do people who are happily unmarried.

The CSJ also says that “the decline in marriage since the 1960s has been accompanied by a rise in a number of serious social problems”. Yet throughout the period in which the divorce rate took off there were incentives in the tax system for people to be married. Didn’t exactly work, did they? And since the incentives were abolished, the divorce rate has fallen. In 2007 in England and Wales it was the lowest since 1981. ... For the CSJ, the conclusion is leading the data, not the other way round. But even if you don’t mind your social science shoddy, the policy will never work. For a start, only 25 per cent of families with children are headed by married couples with one person working and one not — the only families that would benefit

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<sup>60</sup> Social Justice Policy Group, *Every Family Matters*, July 2009 p231

<sup>61</sup> “James Purnell: Couples marry for love, not for tax breaks”, *Independent*, 12 April 2009

from the Tory plan. Unemployed married couples don't get it. Nor do married couples who both work. Get back in the kitchen, one of you.<sup>62</sup>

In response, David Willetts, then Shadow Secretary of State for Universities & Skills, with responsibility for the party's family policy, argued this type of relief could play a positive role, and, crucially, was a sensible, practicable test for a tax break:

We understand that someone who tried to explain a deeply personal decision to marry or split up by its effect on their tax would seem very peculiar. However, tax reform as part of the wider recognition of marriage in the public realm would be a good example of a "nudge" to behaviour. *Nudge*, Richard Thaler and Cass Sunstein's book calling for this approach, got a warm welcome across the political spectrum. The main argument does not, however, depend on any nudge to behaviour. It is simply that it is unjust not to recognise the legal commitment to maintain someone else when the tax authorities are deciding on your tax liability ...

[Sceptics] ask why we should not recognise all stable long-term relationships, including cohabitation ... But judging if a couple is cohabiting — "snooping" — is still one of the most controversial features of our benefits system. This is a crucial clue to how a tax relief can work best. Being married or in a registered partnership is a publicly recognised fact. This does not just mean it has a much more significant impact on our behaviour than cohabiting. It is also a solid basis for tax policy without having to snoop into people's private lives. They just have to be legally married — or indeed in a civil partnership. Going beyond that would be too intrusive. This gives people a genuine choice. You can cohabit, as most of us do now for a stage in our lives. Then you have fewer mutual obligations to your partner and fewer privileges. Or you can choose to be married with extra obligations and some privileges too. The choice is yours.<sup>63</sup>

In early January 2010 the issue came back to public prominence, as it was reported the Conservatives were reconsidering whether a transferable allowance for all married couples might be too costly. The *Daily Telegraph* quoted Philip Hammond, then Shadow Chief Secretary to the Treasury, as explaining that the party were "having to look at different ways [to the CSJ proposal] of introducing a recognition of marriage into the tax system which will not impose the same burden on the public finances."<sup>64</sup> For its part the CSJ published a paper on family policy a few days later which suggested that a transferable allowance should be phased in over a period of time:

We believe that a transferable tax allowance should be introduced in the UK. This would send a clear signal in support of marriage as an important institution. It would also have the practical benefit of supporting and recognising those spouses playing vital, unpaid caring roles. This could be achieved in a number of ways with differing costs – all of which are a fraction of the £20-24 billion annual cost of family breakdown.<sup>65</sup> In the long-term we recommend the implementation of a transferable tax allowance for all married couples, but in the current financial climate we recommend a staggered implementation. We believe that as a priority, a transferable tax allowance should be introduced for married couples with children aged 0-3, the formative years of a child's life.

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<sup>62</sup> "Money won't buy you love. Or good marriages", *Times*, 15 July 2009

<sup>63</sup> "For richer or poorer, tax breaks are fairer", *Times*, 20 July 2009

<sup>64</sup> "Marriage tax break 'too costly' for Tories", *Daily Telegraph*, 6 January 2010. see also, "Tories repent at leisure after making hasty vows", *Times*, 6 January 2010

<sup>65</sup> The Centre for Social Justice, 2006, *Breakdown Britain, Volume 1, Fractured Families*, C11

Different scenarios could include:<sup>66</sup>

- For all married couples: £3.2 billion
- For married couples with dependent children or in receipt of Carers Allowance: £1.5bn
- For married couples with children under 6: £0.9bn
- For married couples with children aged 0-3, the most important years for a child's development: £0.6bn

A transferable tax allowance of the full personal allowance amount would provide an additional £20 per week. We do not believe that this will *incentivise* marriage, nor should it, but it may encourage more couples to make the transition from co-habitation to marriage and thereby increase the stability of their relationship. Although a modest sum, £20 a week could make a significant difference to low income families. Importantly it will provide the symbolic recognition of the value of marriage.<sup>67</sup>

The Party reiterated its position on both this issue, and the need to remove 'couple penalty' from the tax credits system, in the family section of its 'draft manifesto'.<sup>68</sup> The Labour Government published a green paper on family policy at this time: although the paper made no explicit reference to the case for transferable allowances, in the paper's introduction, the then Secretary of State, Ed Balls, commented, "marriage is an important and well-established institution that plays a fundamental role in family life in our society. However, marriage is a personal and private decision for responsible adults, with which politicians should not interfere."<sup>69</sup> In an interview with the BBC's Today programme to coincide with the green paper, Mr Balls suggested that this form of tax relief would disadvantage widows and lone parents. The programme also quoted Liberal Democrat MP David Laws, then spokesman for the party on families, as taking issue with both parties, suggesting that any extra funding should be put into schooling.<sup>70</sup>

In a short commentary on the debate, the Institute for Fiscal Studies argued that, despite the strong views expressed about the importance of marriage, it was still very difficult to provide evidence to show what its true impact really is: "in general children born to parents who are married do better on a wide range of outcomes to children born to cohabiting couples (and indeed to lone parents). But marriage itself may not be at the root cause of this difference, since cohabiting and married couples with children differ: for example, cohabiting parents are typically less educated, younger, and have a lower household income than married parents ... There has been remarkably little systematic work from the UK to date which investigates these important issues."<sup>71</sup> In 2011 the IFS published some ongoing research work, which tried to analyse whether marital status alone could be seen to have a significant impact on children's development; the authors concluded it could not:

It is true that children born to married couples are on average more cognitively and emotionally successful than children born to cohabiting couples. But careful analysis shows that this largely reflects the differences between the types of people who decide to get married and those who don't. On average those who marry tend to come from

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<sup>66</sup> Costings are estimates worked out by the Institute of Fiscal Studies on behalf of the CSJ, all but the 0-3 scenario were costed in 2007 for Breakthrough Britain, the 0-3 scenario was costed in 2009

<sup>67</sup> Centre for Social Justice, *Green Paper on the Family*, 18 January 2010 pp19-20. see also, "Tories sound retreat over tax break plan for married couples", *Times*, 19 January 2010

<sup>68</sup> Conservative Party press notice, *Plans outlined for strengthening families*, 20 January 2010

<sup>69</sup> Department for Schools & Families, *Support for all*, Cm 7787 January 2010 p3

<sup>70</sup> "Parties in fight over the family", *BBC News online*, 20 January 2010

<sup>71</sup> Brewer et al., *Marriage, children's outcomes and tax policy*, IFS Observations, 22 January 2010

more advantaged families, and are more cognitively and emotionally successful themselves, than those who cohabit. This explains the differences in outcomes for children. Marriage itself appears to confer little, if any, benefit in terms of child development.<sup>72</sup>

In October 2013 the authors of this study published a final report which reinforced these findings,<sup>73</sup> which, in their view, illustrated the importance of using good evidence to inform policymaking:

Understanding whether and to what extent factors are causally related or simply correlated is crucial from a policy perspective. Policy decisions should ideally be based on evidence of a causal relationship. This is not always possible, however, in which case it is important to be clear about exactly what we do, and don't, know.

The work we are publishing today on the link between parents' marital status and relationship stability and children's outcomes is a good example of where one has to be very careful about the conclusions one is drawing. There is a strong correlation between parents being married and children who are more successful academically and in other ways. But there is not good evidence of a causal link – though we can't say for sure that such a link does not exist. Researchers must be careful not to interpret or present statistically significant associations as evidence of causation. In turn, policymakers must be cautious about using such associations as a basis for policymaking.<sup>74</sup>

On 6 April 2010 the then Prime Minister, Gordon Brown, confirmed that the General Election would be held on 6 May. The main parties published their manifestoes in the days after the dissolution of the House on 12 April. In their manifesto, the Conservatives reiterated their commitment to “recognise marriage and civil partnerships in the tax system in the next Parliament”, which would “send an important signal that we value couples and the commitment that people make when they get married.”<sup>75</sup> However, just prior to this, the Party gave more details of what it meant by this, in a press notice; an extract is reproduced below:

A Conservative Government will introduce a recognition of marriage and civil partnerships in the tax system ... The proposed recognition will take the form of a partially transferable personal allowance for all married couples and civil partnerships.

- One member of an eligible couple will be able to transfer £750 of their tax free personal allowance to their partner in order to reduce their partner's income tax bill. This will be limited to basic rate taxpayers and is therefore worth up to £150 a year per couple at the 20% rate of tax. In 1999, its final year before it was abolished for all but pensioner couples, the Married Couples Allowance was worth £197 per couple per year.
- The additional transferable allowance will be tapered away at incomes above £42,500 so that no higher rate taxpayer earning £44,000 or more will benefit.

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<sup>72</sup> IFS press release, *Marriage does not improve children's development*, 19 July 2011. see also, *Cohabitation, marriage, relationship stability and child outcomes: an update*, IFS Observations, 19 July 2012

<sup>73</sup> Crawford, Goodman & Greaves, *Cohabitation, marriage, relationship stability and child outcomes: final report*, IFS Report R87, October 2013.

<sup>74</sup> Crawford & Greaves, *The crucial role of good evidence in evidence-based policymaking*, IFS Observations, 25 October 2013

<sup>75</sup> *Invitation to join the Government of Britain: the Conservative Manifesto*, 13 April 2010 p41

- Eligible couples where one partner is not using all of their tax free personal allowance and the other earns between £6,600 and £44,000 will be up to £150 a year better off.
- The full benefit of £150 goes to eligible couples where the main earner earns between £7,300 and £42,500.<sup>76</sup>

The party cited estimates published by the Institute for Fiscal Studies that the proposal would cost around £550m in 2011/12; at this time the IFS gave more details of how the transferable allowance would work, and the types of family which would gain, or lose, from the change:

#### **How would it work?**

Under the Conservative Party's new proposal, if one adult in a couple is not using all of their personal income tax allowance (because their income is less than the personal allowance, which is projected to be £6,555 per year in 2011–12), then they can transfer up to £750 of this unused allowance to their spouse. This transferred allowance will then lower the spouse's tax bill by up to £150 (the tax that would be paid on £750 of income at the basic rate of 20%). However, this transferred allowance will be tapered away from individuals whose income exceeds £42,455, at a rate of 50p for every £1 by which their income exceeds £42,455. This means that no-one with an income above the threshold of £43,955 at which the higher 40% income tax rate applies would benefit<sup>77</sup>

A married individual with an income of *less than* £5,805 per year will therefore be able to transfer £750 of their personal allowance to their spouse, so long as their spouse's income is less than £42,455, increasing the couple's net income by £150 a year. Married individuals with incomes of *between* £5,805 and £6,555 will be able to transfer the unused portion of their personal allowance to their spouse, increasing the couple's net income by less than £150, but again subject to this being tapered away when their spouse's income exceeds £42,455.

#### **Who gains and who does not?**

The families that would gain from this policy are couples in marriages or civil partnerships where only one member of the couple pays income tax and where the personal income of the taxpayer is less than £43,955. In total, we estimate that about 4.0 million out of 12.3 million married couples will gain from the policy, at a cost to the exchequer of about £550 million. This includes 2.5 million of the 8.7 million married couples with someone in work. The remaining 1.5 million gainers are mostly married pensioners. The policy is not, therefore, a general recognition of marriage in the tax system, as it affects only 32% of married couples and 29% of non-pensioner married couples.

Three sorts of married couples will not benefit from this policy:

- First, those couples where both adults each have an income greater than £6,555 and where there is therefore no unused allowance to transfer.
- Second, those couples where one adult has an income below £6,555, but their spouse pays income tax at the 40% rate or higher.
- Third, those couples where both have an income below £6,555, because such families would pay no tax in the absence of the policy and so neither partner can benefit from a higher tax allowance.

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<sup>76</sup> Conservative Party press notice, *Recognising marriage in the tax system*, 10 April 2010

<sup>77</sup> The Conservative press release describing the policy has rounded all income figures and thresholds to the nearest £100.

The IFS also raised concerns that the proposal would make the tax system more complex:

The most striking feature of the policy is that it significantly complicates the income tax system, introducing new marginal rate bands into already increasingly byzantine tax schedules. Simpler ways to provide support to low- to middle-income married couples would include introducing a married couples' 'premium' into working tax credit and pension credit. A transferable personal allowance, restricted to married couples, capped at £750 and tapered away above £42,455 will surely be complicated to understand, and costly to administer, and this cost must be considered in addition to the direct cost of the policy. The policy represents yet another use of a tapered personal allowance, which is a complicated, confusing and untransparent way of simply increasing an individual's marginal income tax rate over a small band of income.<sup>78</sup>

The other two main parties were strongly critical of the proposal, as reported in the press:

David Cameron today rejected scathing criticism of Tory plans for recognising marriage in the tax system, and insisted the measures would be extended during his first term in power ... the Conservative leader said it was "important" to start recognising the institution of marriage in the tax system ... The proposals are on a significantly smaller scale than the blanket transferable allowance mooted by former Tory leader Iain Duncan Smith a few years ago. But Mr Cameron pointed to the dire state of the public finances and pledged that he would extend the tax breaks in his first term if elected. "I am sure over the course of a parliament we would be able to go further," he told reporters on the campaign trail. "I want us to be the most family-friendly (country) in Europe" ...

Gordon Brown, out canvassing in Scotland, accused the Tories of taking money away from struggling families ... Labour Work and Pensions Secretary Yvette Cooper said it was "appalling to tell widows or women who've left an abusive husband that they don't deserve support." "And it is completely unfair to tell children whose parents, for whatever reason, aren't married that they and their families are second class. What kind of signal is that? How can that be good for families in Britain?" she added. Lib Dem leader Nick Clegg - campaigning with his wife Miriam Gonzalez Durantez in his Sheffield Hallam constituency - said the Tory plans were a "throwback to the Edwardian era". "Miriam and I got married for love, not for three quid a week," he said. "It's patronising drivel."<sup>79</sup>

The *Financial Times* columnist, Clive Crook, was similarly dismissive in an opinion piece in the paper:

Mr Cameron's income tax wheeze would be worth, at most, £150 a year - a rather meagre amount for a betrothal incentive ... But even though the potential gains for individuals are small, his plan is not cheap. The money is available to any of the UK's 12m married couples so long as they meet a series of work and income conditions. So the scheme costs £550m - and most of the cash is frittered away on long-betrothed households to whom it would make no difference ... If Mr Cameron is determined to interfere in Britons' marriage choices, he should at least meddle effectively. His current plan just tears up £550m and throws it into the air. It would be much more efficient to subsidise confetti.<sup>80</sup>

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<sup>78</sup> IFS press release, *Conservatives to recognise one third of marriages in the tax system*, 9 April 2010

<sup>79</sup> "Cameron vows to extend pro-marriage measures", *Press Association National Newswire*, 10 April 2010

<sup>80</sup> "Pay up if you want me to get hitched", *Financial Times*, 17 April 2010

## 5 The Coalition Government's approach

In the first months after the Election, and the establishment of the new Coalition Government, the introduction of a partly transferable allowance for couples seemed quite likely. In the agreement underpinning the Coalition, the new Government stated that priority, with regard to tax cuts, would be given to an increase in the basic personal allowance, but indicated that some form of transferable allowance would be introduced:

We will increase the personal allowance for income tax to help lower and middle income earners. We will announce in the first Budget a substantial increase in the personal allowance from April 2011, with the benefits focused on those with lower and middle incomes

... We will further increase the personal allowance to £10,000, making real terms steps each year towards meeting this as a longer-term policy objective. We will prioritise this over other tax cuts, including cuts to Inheritance Tax. We will also ensure that provision is made for Liberal Democrat MPs to abstain on budget resolutions to introduce transferable tax allowances for married couples without prejudice to the coalition agreement.<sup>81</sup>

However, in the new Government's first Budget on 22 June 2010 the Chancellor, George Osborne, did not mention this proposal, although he confirmed that the personal allowance would rise by £1,000 from April 2011.<sup>82</sup> In a written answer given a few days before the 2010 Budget the Exchequer Secretary, David Gauke, simply confirmed that "proposals that recognise marriage and civil partnerships in the income tax system will be brought forward by the Chancellor at the appropriate time."<sup>83</sup>

The Chancellor made no mention of the issue in his 2011 Budget, though the social policy charity, CARE, which has long-supported this change, launched a lobbying campaign in the weeks before the Budget statement.<sup>84</sup> Following the Budget, the Centre for Social Justice published a report on the Government's first year in office in which it was very critical of, in its words, "compromise-driven inaction on tackling our devastating culture of family breakdown", noting that "transferable tax allowances for married couples, which could make a genuine difference to our low income two parent families, have moved off radar despite sustained support by David Cameron for this in Opposition and a commitment in the Coalition's Programme for Government."<sup>85</sup> The issue was raised at the report stage of the *Finance Bill 2011*; Edward Leigh MP moved a new clause to provide for a system of transferable allowances and thus "fulfil the pledge [our Front-bench team] solemnly made in the manifesto and put in the coalition agreement."<sup>86</sup> Speaking for the Opposition Chris Leslie refused to support the new clause as "there are major problems with the transferable allowance":

It is costly and not targeted, and it is unfair to those without a marriage certificate, whether they are divorced, widowed, single or in a couple. There are a host of

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<sup>81</sup> HM Government, *The Coalition: our programme for government*, 20 May 2010 p30

<sup>82</sup> Further increases on the personal allowance were introduced in the two successive Budgets, and in Budget 2013 the Chancellor confirmed the allowance would be set at £10,000 for 2014/15 (for more details see, *Income tax: recent increases in the personal allowance*, Library standard note SN6569, 31 January 2014).

<sup>83</sup> *HC Deb 9 June 2010 c190W*

<sup>84</sup> CARE press notice, *Osborne's Budget in the light of CARE's report*, 4 March 2011

<sup>85</sup> CSJ, *Building a social recovery? – a first year report card on the Coalition Government*, May 2011 p1, p3

<sup>86</sup> *HC Deb 28 June 2011 c827*

anomalies and unintended consequences, as several of my hon. Friends have said. For instance, if a husband is killed in a tragic road accident, his widow and children will be left without support, and so on. The proposal undermines the principle of independent taxation, but most of all, we should focus our tax and benefits system on need and on the alleviation of poverty.<sup>87</sup>

By contrast the Exchequer Secretary, David Gauke, expressed the Government's support for the principle behind the new clause but argued that "now is not the appropriate time to bring forward such a measure":

If we are to address poverty, it is important that we address not just poverty but the causes of poverty—to coin a phrase—and ensure that work pays, which our welfare reform programme is designed to do. It is also important that we take steps to ensure that the family and marriage are recognised, and that we do what we can to support stable relationships ... The previous Government introduced the transferable nil-rate band for inheritance, which was specifically designed to assist married couples and civil partnerships ... If the Labour party is against any kind of recognition of marriage within the tax system, why did it introduce the transferable nil-rate band for inheritance tax? ...

Although the Government support the principle behind the new clause, now is not the appropriate time to bring forward such a measure. It would entail significant and immediate costs to the Exchequer, its scope is wider than the Conservative party manifesto pledge and the cost, we estimate, would be more than £4 billion. It would also necessitate substantial implementation costs ... There is much that HMRC will need to prepare before the Government are able to meet their commitment, but hon. Members can rest assured that the Government are considering all those points.<sup>88</sup>

Mr Leigh put the new clause to a vote, and it was defeated by 473 votes to 23.

Over the next two years campaigners continued to raise the issue,<sup>89</sup> without the Government giving any more details of its plans.<sup>90</sup>

At the report stage of the Finance Bill on 2 July 2013, Tim Loughton MP put down a new clause to require a transferable allowance to be in place from April 2014. Before the debate took place, it was reported that the Prime Minister had assured Conservative Members that details would be given in the Autumn Statement in November,<sup>91</sup> and Mr Loughton withdrew his amendment without putting it to the vote. Mr Loughton asked if the Minister could confirm provision to this effect would be made in the Finance Bill next year; in response the Exchequer Secretary, David Gauke, said, "the Prime Minister has made it clear that we will be announcing our plans shortly ... recognition of marriage involves a new attribute to our income tax system, requiring Her Majesty's Revenue and Customs to link married couples in a way that does not currently happen. That is deliverable, but I am not going to set out a

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<sup>87</sup> HC Deb 28 June 2011 cc 875-6

<sup>88</sup> HC Deb 28 June 2011 c877, cc876-7, c878

<sup>89</sup> For example, Centre for Social Justice, *It's time to back marriage*, February 2012; CARE, *Taxation of families 2009/10*, March 2012.

<sup>90</sup> For example see the comments made by the Exchequer Secretary in answer to a Westminster Hall debate on this issue in November 2012 (HC Deb 28 November 2012 cc91-3WH). Twenty Members signed an Early Day Motion in favour of transferable allowances at this time (EDM 789 of 2012/13, 28 November 2012).

<sup>91</sup> "Marriage tax break at last", *Daily Mail*, 30 June 2013; "David Cameron pushed into early vote on marriage tax break", *Guardian*, 30 June 2013

timetable today. Once we are able to make an announcement on timing, the Chancellor will do so, but I repeat that we want to do this as soon as possible.”<sup>92</sup>

As it transpired, the Prime Minister gave some details of the Government’s plans in an article which appeared in the *Daily Mail* on 28 September 2013. In this Mr Cameron announced that, “from April 2015, if neither of you are higher rate taxpayers, you will be able to transfer £1,000 of your tax-free allowance to your spouse. In effect, if you pay the basic rate of tax and your partner doesn’t use all of their personal allowance, you’ll be able to have some of it. Most couples who benefit will be £200 a year better off as a result.” Mr Cameron went on to underline that married couples and those in civil partnerships would be entitled to use this provision, and that, contrary to what some critics had maintained, the allowance was to act as an incentive for couples to get married: “frankly this is a pretty depressing – and wrong-headed – view of human nature. People aren’t going to choose to get married for a few extra pounds each week. This policy isn’t about the money but about the message that people who make a lasting commitment should be recognised in some way.”<sup>93</sup> A press notice issued by the Treasury at this time gave more detail:

From April 2015 married couples and civil partners will be eligible for a new transferable tax allowance.

The Transferable Tax Allowance for married couples will enable spouses and civil partners to transfer a fixed amount of their personal allowance to their spouse. The option to transfer will be available to couples where neither partner is a higher rate taxpayer. For a couple choosing to use the Transferable Tax Allowance, one individual will be able to transfer £1,000 of their personal allowance to their spouse or civil partner. It will mean that the higher earner will be able to earn £1,000 more before they start paying income tax.

The policy benefits married couples, including same sex married couples and civil partners where one is a basic rate taxpayer (earns below £42,285 in 2015 to 2016) and one has unused personal allowance. The claim will be made online and entitlement will be from the 2015 to 2016 tax year. Couples will be entitled to the full benefit in their first year of marriage. For those couples where one person does not use all of their personal allowance at the moment the benefit will be up to £200.

The measure will come in from 2015 to 2016, and couples will benefit from summer 2016. Over four million couples will benefit from the Transferable Tax Allowance, including 15,000 couples in civil partnerships. It will be of most benefit to those households on lower incomes.<sup>94</sup>

Following the Prime Minister’s statement, the Institute for Fiscal Studies published some estimates of the numbers of couples who could benefit:

The families that would qualify for the tax break are couples in marriages or civil partnerships where one individual is a basic rate taxpayer and the other does not pay any income tax - that is, 3.9 million of the 12.4 million (31%) couples in a marriage or civil partnership. This includes 1.4 million of the 7.8 million families with children. 2.7 million of the 3.9 million eligible families have someone in work. The rest are mostly

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<sup>92</sup> HC Deb 2 July 2013 c881

<sup>93</sup> “Marriage is good for Britain - and that's why I'm backing it with a tax break, says David Cameron”, *Daily Mail*, 28 September 2013. See also, “Tories woo married couples with tax break”, *The Guardian*, & “David Cameron unveils marriage tax breaks plan”, *BBC News online*, 28 September 2013.

<sup>94</sup> HM Treasury press notice, [Marriage Transferable Tax Allowance announced](#), 30 September 2013

married pensioners. The eligible families tend to be around the middle or lower-middle of the income distribution: most are in the third to sixth income decile groups. As neither two-taxpayer couples nor higher-rate taxpayers would benefit, the cash would go to families with somewhat less high incomes, on average, than under a straightforward increase in the personal allowance that cost the same amount.

They also raised certain concerns as to the impact of this allowance on work incentives, because of the way in which it would be withdrawn if an applicant's income rose above the higher rate threshold:

Since the transferred personal allowance would not be available to higher rate taxpayers, workers benefiting from a transferred allowance would have a weaker incentive to increase their taxable income above £42,285 (or a stronger incentive to make more pension contributions or charitable donations, which can be deductible from taxable income, to remain in the basic rate band). Indeed some could be worse off after a pay rise, or better off after a pay cut, because the transferred allowance will be withdrawn in 'cliff-edge' fashion – that is, withdrawn in its entirety once income rises above a threshold rather than tapered away gradually over a range of income. Income tax liability would jump by £200 per year when taxable income crossed £42,285, and hence post-tax income would be higher if taxable income were just below this threshold than if it were just above it.

One striking feature of the policy is that it complicates the income tax system. A transferable personal allowance for married couples capped at £1,000 and then withdrawn using a cliff-edge at the higher-rate threshold is not the simplest to understand ... It is difficult to escape the conclusion that an income tax system which makes some people worse off after a pay rise has something wrong with it. Simpler ways to provide more support to working low- and middle- income married couples would include a higher work allowance for married couples in Universal Credit (with, if the government wished, a further restriction to one-earner couples).<sup>95</sup>

In answer to PQs, the Government refined these estimates slightly: it is now anticipated that that 4.1 million couples would gain from the introduction of the allowance in 2015-16.<sup>96</sup> Approximately one third of this total - 1.3 million families – are families with children; this represents one-sixth of the total number of families with children currently in the UK.<sup>97</sup>

In his Autumn Statement on 5 December 2013 the Chancellor, George Osborne, confirmed the introduction of the allowance from April 2015, and said that in future years, the transferable amount would be uprated in proportion to the personal allowance:

This autumn statement confirms that from April 2015 we will introduce a new transferable tax allowance for married couples. Available to all basic rate taxpayers, it enables people to transfer £1,000 of their personal allowance to their wife, husband or civil partner. It is just a start. And I confirm today that we will introduce a new uprating mechanism that ensures the new married couples tax allowance is automatically increased in proportion to the personal allowance. Four million families will benefit, many of them among the poorest working families in our country.<sup>98</sup>

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<sup>95</sup> Robert Joyce, *IFS Observations: The new tax break for some married couples*, 1 October 2013

<sup>96</sup> HC Deb 20 November 2013 c943W. A regional breakdown has also been given: [HC Deb 29 October 2013 c385W](#).

<sup>97</sup> [HC Deb 20 November 2013 cc943-4W](#)

<sup>98</sup> HC Deb 5 December 2013 c1111. See also, *Autumn Statement*, Cm 8747, December 2013 [para 1.246-8](#)

The cost of the allowance was put at £495m in 2015/16, rising to £775m in 2017/18.<sup>99</sup> There was relatively little response to this part of the speech in the press, though the IFS noted that the gains from the allowance were more focused on lower-income households than the increases made in the personal allowance.<sup>100</sup> It also raised concerns over the ‘cliff edge’ created by the allowance being withdrawn, in full, if the claimant’s income rose above the threshold for the higher rate of income tax – as noted by the IFS’s director, Paul Johnson:

It has been well trailed, but yesterday was the first formal government announcement of the introduction of a new transferable allowance for married couples. Spouses and civil partners will be able to transfer £1,000 of their income tax personal allowance to their spouse or civil partner so long as neither is a higher rate taxpayer. This will be worth £200 a year to slightly less than a third of married couples. The government expects an initial take up rate of only around 70% by those who are eligible.

Financially that is a small change. Its impact on incomes will be modest and its cost will come to a lot less than 10% of that of the increase in the main personal allowance over this parliament. It will complicate the income tax system.

It might seem more likely to be a worthwhile complication if it were the first step to a bigger change. But the way in which it is being introduced suggests that is not the plan. For the allowance is to be withdrawn in its entirety once 40p tax becomes payable. It will introduce a cliff edge into the income tax system – earn £1 more, lose £200. A £200 cliff edge may not be too much to worry about. But one really would not want to make the cliff any higher. So whatever one’s view of the pros and cons of a transferable tax allowance, this one really has not been introduced in a way which makes it easy, or desirable, to extend it and make it a significant part of the tax system.<sup>101</sup>

In his Budget speech on 19 March the Chancellor announced that the personal allowance would be increased £500 to £10,500 from April 2015. The transferable allowance would be increased in line with this:

When we came to office, the personal tax allowance was just £6,500. In less than three weeks’ time, it will reach £10,000 ... Next year, there will be no income tax at all on the first £10,500 of your salary—£10,500 tax free and £800 less in tax every year for the typical taxpayer. Our increases in the personal allowance will have lifted over 3 million of the lowest paid out of income tax altogether, and I am incredibly proud of what we have achieved ... I am linking the rate of the transferable tax allowance for married couples to the personal allowance, so it will also rise to £1,050—help for 4 million families that they will take away and that we are proud to provide.<sup>102</sup>

This change will put up the cost of the allowance by £25m in 2015/16, rising to £40m in 2018/19;<sup>103</sup> total costs will be £515m in 2015/16 rising to £820m by 2018/19.<sup>104</sup>

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<sup>99</sup> Cm 8747, December 2013 p78 (Table 2.1 – item 3). It is anticipated that the take up of the allowance will rise from 70-75% of those eligible to claim to 85% and over (HM Treasury, *Autumn Statement: Policy Costings*, December 2013 p14).

<sup>100</sup> James Browne, *Autumn Statement policy measures : IFS Autumn Statement Briefing*, December 2013

<sup>101</sup> Paul Johnson, *Opening Remarks : IFS Autumn Statement presentations*, December 2013

<sup>102</sup> HC Deb 19 March 2014 c792

<sup>103</sup> *Budget 2014, HC 1104, March 2014* p56 (Table 2.1 – item 4). By contrast the increase in the personal allowance is to cost £1.4bn in 2015/16, rising to £1.9bn by 2018/19 (Table 2.1 – item 3).

<sup>104</sup> *op.cit.* p58 (Table 2.2 – item a). The original estimates of the cost of the allowance set at £1,000 have been revised slightly.

Further details of the way the allowance would work were given in a note published alongside the Budget:

Legislation will be introduced in Finance Bill 2014 to provide that from the 2015-16 tax year, a spouse or civil partner who is not liable to income tax because their income is below their personal allowance or who is liable to income tax at the basic rate, dividend ordinary rate or the starting rate for savings will be able to elect to transfer £1,050 of their personal allowance to their spouse or civil partner. There will be a corresponding reduction to the transferring spouse's personal allowance.

A spouse or civil partner who is liable to income tax at the basic rate, dividend ordinary rate or the starting rate for savings will receive the transferred personal allowance. The transferred allowance will be given effect as a reduction to the recipient's income tax liability at the basic rate of tax.

From 2016-17 the transferable amount will be 10 per cent of the basic personal allowance. Further provisions will account for changes to individuals' marital or civil partnership status such as divorce, dissolution and death. Married couples or civil partnerships entitled to claim the married couple's allowance will not be entitled to make a transfer ...

HM Revenue & Customs (HMRC) is developing the process by which the married couple or civil partners will transfer their personal allowance. HMRC will ensure that the process is as straightforward as possible for customers. The lead option is that one party will apply on-line to transfer the allowance to their spouse or civil partner and HMRC will notify the recipient about the subsequent change to their tax code. HMRC recognises that some customers may need additional support to apply to transfer the allowance.

This note also gives details of the cohort of taxpayers who will benefit from this measure:

4.2 million non-taxpayer/basic-rate taxpayer married couples stand to gain an average £197 between them; most non-taxpayers will be no worse off while the basic rate taxpayer will gain. Of the 4.2 million potential gaining couples, around 310,000 individuals may lose by an average of £104 in 2015-16, where their reduced allowance brings them into tax. However in these cases they will gain as a couple. Couples where both partners are basic-rate taxpayers will in almost all cases see no gain or loss ...

Couples will benefit as a unit, but the majority (84 per cent) of individual gainers will be male. This reflects earning patterns in the population more generally. 35 per cent of couples who stand to gain will be above state pension age ... HMRC recognises that some customers will need additional support to apply to transfer the allowance, and will ensure that processes are in place to ensure that everyone entitled to transfer the allowance can do so.<sup>105</sup>

The Government's decision to introduce the allowance continues to be quite controversial. In an interview with Andrew Marr on the BBC just before the Budget, the Shadow Chancellor, Ed Balls, made clear that in government the Labour Party would scrap it, contrasting it with the Opposition's proposal to have a 10p starting rate of income tax:

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<sup>105</sup> [Transferable tax allowances for married couples and civil partners](#), 19 March 2014. The *Finance Bill 2014* was published on 27 March; provision for the new allowance is made by clause 11 of the Bill.

Ed Balls: We've said that on the 10p rate, we'd pay for that by abolishing the unfair and perverse marriage tax break, which George Osborne has given only to a third of married couples ...

Andrew Marr: It's a very popular tax break, of course.

Ed Balls: Well, look, the problem is people think it's popular until they find out the facts. It goes to only a third of married couples. Eighty-five per cent of it goes to men, not women. Only one in six families with children get it. You only get it if you have only one earner in the family. If you're a hardworking family where both parents are going out to work, you get no help from David Cameron at all. A 10p rate would help all lower and middle income families and we say that's a better way to use the money than the marriage tax break.<sup>106</sup>

By contrast the Government has presented the policy as one of a series of initiatives to support families; for example, in answer to a recent PQ:

**Dr McCrea:** To ask the Chancellor of the Exchequer if he will take steps to ensure that the tax system does not disadvantage families with stay-at-home mothers. [191887]

**Mr Gauke:** The Government has taken a number of steps to help all families. For example, we have increased the income tax personal allowance, helping 25 million people. We have cut fuel duty. It now costs £7 less for a typical motorist to fill their tank, and it will cost £11 less by the end of the Parliament. We have also made funding available to help local authorities in England freeze their council tax for a third year in a row.

Additionally, the Government will introduce the transferable tax allowance for married couples from April 2015. This will allow married couples and civil partner to transfer a fixed amount of their personal allow to their spouse. Doing so will benefit couples where one spouse does not currently use their full personal allowance.<sup>107</sup>

Provision to introduce the new allowance is made in clause 11 of the *Finance Bill 2014*. The clause was debated on 9 April;<sup>108</sup> speaking for the Opposition on this occasion Catherine McKinnell argued that it was "highly restrictive and very complicated":

The Government have decided that there is a very particular form of marriage or civil partnership that they wish to recognise in the tax system ... The marriage tax allowance ... applies only to those couples where one spouse is a basic rate taxpayer and the other does not use their full personal allowance ... The policy will therefore exclude married couples and civil partners on the very lowest incomes where both spouses earn below the income tax personal allowance; couples where both spouses, possibly both basic rate taxpayers, have incomes higher than the personal allowance and therefore have no unused portion to transfer; and couples where either spouse pays the higher rate or the additional 45% rate, with an ever increasing number having been drawn into the 40 pence rate under this Government ...

[The Government's] own recent estimates suggest 4.2 million couples, which equates to a grand total of one in three married couples and civil partnerships in this country [will benefit] ... The policy does nothing for widows, widowers, lone parents, long-term

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<sup>106</sup> BBC, *Andrew Marr Show : interview with Rt Hon Ed Balls – transcript*, 16 March 2014. For more details on the Opposition's proposal for a 10p starting rate see, [Library standard note SN6569](#), 31 January 2014 pp16-19.

<sup>107</sup> HC Deb 17 March 2014 c378W

<sup>108</sup> [HC Deb 9 April 2014 cc272-329](#)

co-habiting couples, the 300,000 children living with grandparents or kinship carers or for the spouse who has left their partner for good reason, perhaps because of domestic abuse ... For the one in three couples who will benefit, it could be worth up to £200 a year, almost £3.85 a week ... [The Government's] own assessment of the equality impact, which clearly states that while "couples will benefit as a unit...the majority...of individual gainers will be male." But it is not just any old majority. The Government's own assessment indicates that a staggering 84% of individual gainers will be male.<sup>109</sup>

Ms McKinnell went on to raise concerns about the costs both of administering the allowance, and claiming it:

[HMRC's] tax information and impact note on the policy ... simply states: "HMRC will incur additional costs on the introduction and administration of the transferable allowance" ... [The IFS] indicates that the precise costs of this policy for the Government, HMRC and employers "will depend on the rate of take-up, as people will presumably have to make an active claim to HMRC to benefit, and the extent to which individuals change their behaviour in order to qualify." ...

The apparent onus on taxpayers proactively to apply for this allowance is a concern that has been raised more widely. The Low Incomes Tax Reform Group has pressed the Government to ensure that a claim for the marriage tax allowance can "be made on paper, as well as online; digital exclusion affects disproportionately people on low incomes, the very people to whom this relief is directed. It is particularly important that a paper copy is available since, in some cases, taxpayers will seek assistance from the voluntary and charitable sector with, perhaps, only one spouse being physically present at such meetings." LITRG goes on to urge that "the claim/election process will be made as simple as possible—preferably a joint election rather than separate claim and election." I look forward to the Minister's response to those concerns.<sup>110</sup>

In response the Exchequer Secretary, David Gauke, set out the Government's case for introducing the allowance, and targeting the allowance to certain groups:

Marriage is already recognised in the tax system in inheritance tax and capital gains tax ... Marriage is also recognised in the income tax system in most other developed countries ... Now we want to recognise it more widely in the UK income tax system ... [This policy] also provides a way of allowing lower income married couples and civil partners to feel more of the benefit from our increases to the personal allowance ... If one spouse is a low or non-earner, the couple will be able to benefit only from one personal allowance increase ...

First, in 3 million couples, one or both partners are higher or additional-rate taxpayers. Some of them can benefit from the changes to the personal allowance, but if we had a policy that extended the transferable tax allowance to higher and additional rate taxpayers, the Opposition would complain that it was not well targeted and that it should be directed at low-earning households ... The second group that does not benefit is the 1.8 couples in which both partners are non-taxpayers. It is worth pointing out that since 2010 about 350,000 couples have become non-taxpayers because we have taken them out of income tax. It is impossible to provide an income tax cut for people who do not pay income tax. The Opposition argue that what we should do instead is have a 10p rate of income tax, but a 10p rate would not help those married couples either ...

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<sup>109</sup> *op.cit.* cc272-4

<sup>110</sup> *op.cit.* cc280-1

The third category of people who will not benefit is couples where both members are basic rate taxpayers, but those are the households that have benefited most from the very significant increases in the personal allowance that this Government have been able to deliver. One has to look at the overall package and what this Government have done in terms of cutting taxes.<sup>111</sup>

The Minister went on to address the concerns Ms McKinnell had raised about the way in which couples would be able to claim the allowance.

On the practical points raised by the hon. Member for Newcastle upon Tyne North, only the transferor will need to make an election, which will make it administratively easier for couples. We also want to implement the measure through a digital process, but we recognise the need for support for those unable or unwilling to use that method. HMRC will be properly funded to deliver this policy.<sup>112</sup>

In the event, the House divided, and the clause agreed, unamended, by 279 votes to 214.

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<sup>111</sup> *op.cit.* cc319-321

<sup>112</sup> *op.cit.* c321