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Tax Individualisation:
Time for a Critical Rethink

by John Paul Byrne

Foreword
by Joan Burton TD, Labour Finance Spokesperson

When Former Minister for Finance Charlie McCreevy TD introduced tax individualisation in Budget 2000, he set in train a system where a single income married couple earning €68,000 or above in 2007 will now pay €6,240 more in taxation than a married couple where both go out to work. (As compared with €5,780 in 2006).

This paper by John Paul Byrne, BCL LLM NUI Barrister at Law is a timely analysis of this very technical area of taxation. It sets out in detail how the current individualisation process every year increases the tax penalty on single income married couples.

As the paper shows, the policy of individualisation has led to dramatic transfers from families with children to two income households, many without dependants, the so-called "dinkys" (double income no kids). The consequence of individualisation is to introduce a significant and growing bias in the tax system against families with children where one spouse chooses to stay at home and care for children.

For many families, particularly those doing long commutes to work, having one parent stay at home to look after the children may not just be a lifestyle choice, it may be the only viable option, particularly when children are very young.

If you work in Dublin and move to say Wexford or Westmeath and have two or more children, crèche fees could be as much as €300 a week or more. Such a family might well have a four hour return commute per day.

Small wonder that during the early years, many such families opt for one spouse, usually the mum, to stay at home as a full time carer.

Should such a decision be penalised as heavily as it now is by the State? Parents should be encouraged to spend more time with their children and with each other. It is a legitimate social policy for any State to encourage long term stable and loving relationships in which children are cared for.

Across the tax and social welfare code, there is now a significant anti-family bias that is worrying. The tax individualisation penalty of up to €6,240 plus per annum is a very high price to pay for one parent caring for the children full time in the home.

For a couple on social welfare, committing to marriage particularly if they are also in receipt of a rent allowance can be even more expensive.

As Labour Party Spokesperson on Finance, I have proposed a standing commission on Taxation to examine on a continuous basis who are the winners and losers in our complex taxation and social welfare system. Many of the changes of recent years such as individualisation have received little or no detailed discussion of their long term social impact. I believe it is appropriate to re-visit the issue.

Personally, I think individualisation has gone far enough. Reversing the policy is estimated to cost up to €700 million a year on an ongoing basis. However we could stop widening the penalties against single income families in each annual Budget. Another step would be to bring the Home Carers Credit which is currently €770 per annum up to the level of the PAYE credit of €1760.

To do this in one year would cost up to €100 million. I believe it would be money well spent. It would also allow couples more space in which to decide what is best for them and their children. It would allow greater options in lifestyle, particularly for families struggling to care for 2 or 3 young children in their early years.

Ironically, if our married couple were to separate and were both working and agreed some joint custody arrangements for the children, they would immediately each qualify for a special lone parents tax credit of €1,760, and in addition to a further PAYE tax credit for the separated husband and wife. Small wonder that many single income families really feel that the State has it in for them.

Based on the figures as set out by John Paul Byrne, they would seem to be right.

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Time for a Critical Rethink?

I. Introduction

Tax individualisation, introduced to great controversy in 1999, can now mean that a one-income married couple with children can pay up to €6,240 more in tax each year than a two-income married couple on the same earnings.

This amounts to €120 per week. A discrepancy of this magnitude can only be justified if it is overwhelmingly in the public interest, that is, if there are overwhelming economic and social reasons for such different treatment.

It is the contention of this paper that this is far from being the case and therefore the tax treatment of one-income married couples amounts to an injustice that should be rectified. One-income married couples and two-income married couples should be treated on the same basis for tax purposes. This should be done in the most equitable way possible and in that sense should *not* impact negatively on two-income married couples. If equalisation of the effect of tax bands cannot be achieved in one budget, then it should be accomplished over a number of budgets.

In its purest form, individualisation is a policy which seeks to create a family taxation regime where taxation is individual: interdependence of family members is ignored and for tax purposes family members are treated as wholly separate individuals.

In Ireland, the concept is credited to former Fianna Fail Minister for Finance, Charlie McCreevy TD when in his Budget 2000 speech he created two separate tax bands for married couples, one-income and two-income, and declared his intention to phase in full individualisation by welding together the married one-income band with the sole earner band over the course of the following two budgets.

Due to a public outcry over the proposal his plan for full individualisation never came to fruition. The distinction he created between married one-income and married two-income couple's remains and in that sense a partial or incomplete individualisation of the tax bands has been implemented.

Strictly speaking, notwithstanding the fact that the Minister took the first step towards individualisation, the system now in place is not taxation on an individual basis but rather is a type of hybrid between the older aggregation system and the envisaged policy of full individualisation.

Aside from the effects of this as yet, unsuccessful attempt at full individualisation of the bands, married couples are also affected by the Employee Tax Credit. The method of application of this credit, and the rate at which it has increased ahead of the rate of inflation, has led to an accusation that the Government has proceeded by stealth, through the system of tax credits, with their plan for full individualisation,[1] a point which is further elaborated in the text below.

The result is that Ireland's family income taxation system is a mixture of a hybrid policy of individualisation on the tax bands, on the one hand, and a policy of increasing individualisation of

[1] See the significant article by Economist Jim O'Leary in *The Irish Times, Business this Week*, 1 December 2006.

tax credits on the other. It might be considered that the entire income tax system is a type of individualisation hybrid.

The net effect of this hybrid individualisation policy is that married couples may pay significantly more income tax where their aggregate income is the same as the identical aggregate income of another married couple. (*See* Table 1) The difference can be very significant, sometimes 200 per cent or more, and affects a large number of married couples, whether one-income or two-income, in different ways.

In addition, pressure to increase individualisation is growing. The Progressive Democrats have set out their intention to increase the difference between married one-income and married two-income couples over the life-time of the next Government. In 2006 they announced that two-income married couples should not pay the higher rate of taxation until their aggregate income reaches €100,000, while one-income married couples would have to pay the higher rate when their income reaches only €50,000.[2]

II. Consideration of the Application of Individualisation in Practice

This paper will move onwards to consider individualisation from a conceptual perspective. However, firstly, it is necessary to set out how the policy of individualisation affects married couples and in that regard the following three matters should be considered: *(a)* income tax bands; *(b)* the Employee Tax Credit; and *(c)* the Home Carers Tax Credit.

The Tax Bands

(a) Under the Government's hybrid individualisation policy, married one-income couples pay more taxation than married two-income couples, by virtue of a substantial difference on tax bands. Married one-income couples pay the lower rate of taxation until €43,000, at which point they pay the higher rate of taxation.

In other words, significantly, married one-income couples pay the higher rate of taxation [41 per cent in 2007] between €43,000 and €68,000. This means one-income married couples potentially pay €10,250 in taxation on that €25,000 (€68,000 - €43,000).

This can be contrasted with married two-income couples. Married two-income couples pay the lower rate of tax on their aggregate income until €68,000. In other words, crucially, they pay the lower rate of taxation [20 per cent] for income that falls between €43,000 and €68,000 (provided the income of the lower earning spouse is at least €25,000). Married two-income couples, potentially, pay €5,000 on that amount. Therefore, overall, married two-income couples could be in a better position than married one-income couples to the tune of a potential €5,250 this year alone on tax bands.

This gap on the bands has been increasing almost year-upon-year since the introduction of individualisation. Last year the bands were effectively set at €41,000 for married one-income couples and €64,000 for two-income couples. The gap on the bands was €23,000 and the maximum potential difference in taxation paid between married one-income and married two-income families was €5,060.

[2] As announced by the Progressive Democrats at their National Party Conference, *The Irish Times*, 19 February 2007 and see http://www.progressivedemocrats.ie/press_room/1762/

The Progressive Democrat election promise seeks to double the gap between one-income and two-income married couples over the life-time of the next Government. Instead of a married one-income couple paying the lower rate of tax potentially €25,000 earlier, that gap will increase to €50,000.

The net effect would be that married one-income couples, by the end of the life-time of the next Government would pay up to €10,000 more per annum, based on the proposed tax rates of 18 per cent and 38 per cent.

The Employee Tax Credit

(b) The Employee Tax Credit (also called the PAYE Credit) applies to every employee but can not be transferred to a stay-at-home spouse, therefore increasing the injustice of individualisation. In that way, married one-income couples are entitled to one Employee Tax Credit while married two-income couples are entitled to two Employee Tax Credits. The credit is valued at €1,760 this year and similar to the gap on the tax bands the credit has been increasing; it was valued at €660 in 2002.

The net effect from the application of the Employee Tax Credit is similar to the effect from tax bands: married one-income couples are worse off than married two income couples. Within the PAYE system the difference is €1,760. This figure needs to be added to the difference on tax bands. The Employee Tax Credit increases the total potential difference between married one-income and married two-income couples to up to €7,010 per annum.

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Home Carers Tax Credit

(c) The Home Carers Tax Credit is a credit which could redress the inequality between married one-income and two-income couples, if it was applied in a certain way. However, that is not the case and the credit does little to make up for the difference.

The credit applies to either husband or wife who is working in the home caring for a dependant child, the aged or the incapacitated. This credit applies across the board to all married one-income couples. The credit is worth €770.[3] In other words, it is nowhere near enough to make up for the difference on the tax bands or the loss of the Employee Tax Credit(s).[4]

Further, only one credit is available regardless of the number of dependants. In that way, a married one-income family with 5 dependants may be entitled to the €770 Home Carers Credit in the same way as a married one-income family with one dependant. The credit is not multiplied by the number of dependants.

Also, this credit has remained static, not even keeping up with the rate of inflation. At its current value the practical effect of the Home Carers Credit is the equivalent of the £3,000 Tax Allowance[5] that was introduced one week after the Budget in 2000 to relieve the growing pressure on the Government.

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[3] This value can reduce in accordance with the income of the home carer, if any. See http://www.revenue.ie/leaflets/it66.pdf

[4] The Early Childcare Supplement is also available for every child under 6 years of age from the Department of Health and Children, which issues payments through the Department of Social and Family Affairs. It is a direct, non-taxable payment, worth €1,000 per year for each eligible child.

[5] Allowances are subtracted from gross income before tax is assessed and in that way the tax saved by the allowance is equal to the value of the allowance multiplied by the marginal rate. Tax credits reduce tax liability.

In effect, the manner of the announcement of the tax allowance for carers in 1999 tends to demonstrate that the issue of care in the home has been juxtaposed uncomfortably with the policy of individualisation. Bristow (2004) argues that the home carers credit is no more than an ad hoc reaction to the outcry occasioned by the granting of more favourable treatment to two-income married couples.[6]

While the gap between married one-income and married two-income couples has grown wider and wider year-upon-year, both on the bands and through the ever-increasing Employee Tax Credit, the Home Carers Credit has decreased by virtue of the rise of inflation.

A sceptical observer at the time of the introduction of the allowance may have questioned the Government's sincerity in protecting the carer in the home. While such criticism would have lacked foundation in 1999, there are clear indicators – presented above - to support that view today. The evidence suggests that the Government introduced the Home Carers Credit merely as a way of getting out of a tight corner and had no real concern or interest in protecting the carer in the home – or that, if there was any such concern, it has not been maintained over time.

The Impact of Individualisation

Individualisation is not a purely theoretical concept with little impact. Rather the difference in overall taxation liability between married couples earning the same aggregate income can be significantly high. The overall effect can be seen below:[6]

TABLE 1
Tax Liability 2007[7] of Married Couples taxed under PAYE

Gross Income €	Tax Liability € (PAYE) One-Income with Children[8]	Tax Liability* € (PAYE) Two-Income	Difference €
43,000	2,550[9]	1,560[10]	990
50,000	5,420[11]	2,960[12]	2,460
60,000	9,520[13]	4,960[14]	4,560
68,000	12,800[15]	6,560[16]	6,240[17]

[6] Bristow, *Taxation in Ireland: An Economist's Perspective* (2004, Institute of Public Administration).
[7] See Finance Bill 2007
[8] The number of children is not relevant for the purposes of this Table as the maximum Home Carers Credit that is available is €770 regardless of the number of dependants. Whether married two-income couples have dependants is also irrelevant for the purposes of this Table as those couples get the benefit of individualisation regardless of whether they have dependants or not.
[9] Calculated as follows: €43,000 @ 20% = €8,600 less €3,520 (married tax credit) less €1,760 (Employee Tax Credit) less €770 (Home Carers Credit) = €2,550
[10] Calculated as follows: €43,000 @ 20% = €8,600 less €3,520 (married tax credit) less (€1,760 x2) €3,520 (Employee Tax Credit x 2) = €1,560
[11] Calculated as follows: €43,000 @ 20% + €7,000 @ 41% = €11,470 less €3,520 (married tax credit) less €1760 (Employee Tax Credit) less €770 (Home Carers Credit) = €5,420
[12] Calculated as follows: €50,000 @ 20% = €10,000 less €3,520 (married tax credit) less (€1,760 x2) €3,520 (Employee Tax Credit x 2) = €2,960
[13] Calculated as follows: €43,000 @ 20% + €17,000 @ 41% = €15,570 less €3,520 (married tax credit) less €1760 (Employee Tax Credit) less €770 (Home Carers Credit) = €9,520
[14] Calculated as follows: €60,000 @ 20% = €12,000 less €3,520 (married tax credit) less (€1,760 x2) €3,520 (Employee Tax Credit x 2) = €4,960
[15] Calculated as follows: €43,000 @ 20% + €25,000 @ 41% = €18,850 less €3,520 (married tax credit) less €1760 (Employee Tax Credit) less €770 (Home Carers Credit) = €12,800
[16] Calculated as follows: €68,000 @ 20% = €13,600 less €3,520 (married tax credit) less (€1,760 x2) €3,520 (Employee Tax Credit x 2) = €6,560
[17] For the sake of clarification this figure is arrived at as follows: the maximum difference on tax bands between married one-income and married two income couples (€5,250) + the loss of the extra Employee Tax Credit (€1,760) less the benefit of the Home Carers Credit (€770) = €6,240

The Tables above show the inequitable nature of the family income taxation system in Ireland. The system is heavily weighted in favour of two-income married couples paying tax under the PAYE system. The burden falls most heavily on one-income married couples, whether taxed under Schedule D (profits from a trade, profits from a profession, interest not taxed at source and all foreign income, taxed interest income, rental income from Irish property) or under the PAYE system.

According to the most recent statistics available from the Revenue Commissioners there are approximately 307,000 one-income married couples in the State. This represents approximately fifty per cent of the total number of married couples. Individualisation affects a considerable proportion of those and is expected to cost those affected €700m this year alone.

Obviously, if the next government is elected on an individualisation mandate – already the explicit policy of at least one of the government parties – the cost to married one-income couples over the lifetime of the next government will rise significantly.

III. Brief Conceptual Analysis of Individualisation

This paper will now move to consider a brief conceptual analysis of individualisation. Contemporary taxation policy as it affects married couples in this State falls into three periods: *(i)* the pre-1980 period; *(ii)* the period from 1980 - 2001 and *(iii)* the period from 2001 – Present.

During the first period, sections of the Income Tax Act 1967 created a regime which provided for the aggregation of the earned incomes of married couples and in that way normally imposed tax at a higher rate than where two single persons were living together and taxed separately. In effect the Income Tax Act provisions provided for a joint tax-free personal allowance to a married couple smaller than that which was provided in respect of the same income enjoyed by two single persons.

> ***According to the most recent statistics there are approximately 307,000 one-income married couples in the State.***

The constitutionality of that regime was challenged in the case of *Murphy v. Attorney General.*[18] Mr. Justice Hamilton in the High Court upheld the argument that there had been a constitutional violation. The Supreme Court, on appeal, upheld that finding.

The second period is the post-*Murphy* period when, following the *Murphy* decision, the Minister for Finance of the day, Mr. George Colley, granted to all married couples double the personal allowance of a single person, whether or not both husband and wife were in paid employment.

The third period marks the beginning of the move to full individualisation. At the present time the first step to individualisation has been achieved: the separation of married one-income and married two-income couples on tax bands. Full individualisation, as proposed, will weld the married band with the single earner band.

Theory Behind Individualisation

Two philosophies may be said to underlie the theory of family taxation: the control principle and the sharing principle.[19] Individualisation finds its roots in the first of those principles.

The control principle, which emphasises an individual's control over his or her money and taxation,

[18] [1982] IR 241.
[19] Rowthorn, *Notes on Family Taxation* (Cambridge) [1999]

ultimately pivots on the notion that family obligations should be disregarded by taxation authorities. The sharing principle, by contrast, operates on the basis that family members have legal and other responsibilities to each other - husbands and wives to one another, and parents to children.

Rowthorn argues that although individualisation is presented as the wave of the future by some sources that view is misleading.[20] He explains that individualisation applies the control principle on the basis that individuals assume legal control over the dissipation of their income and the expenditure of their money is merely a matter of personal choice. In that way, whether an individual spends their money on their spouse, or dependants, or whether they spend it on luxury items for their own use is of no concern to the Revenue Commissioners.

Brief Comparison between Aggregation and Individualisation

Arguments in favour of individualisation also include that it is neutral towards family form, and therefore does not favour say, marriage, over other domestic arrangements; that it affords privacy and independence between spouses, and in its application it can be more equitable than other methods of assessment including a strict aggregation system.

Aggregation is the method that was applied in the United Kingdom until 1990. It had its origins in the first income taxation system, introduced in 1799 and survived several reviews before becoming unfashionable during the 1980s.[21] Unlike individualisation, which treats each spouse separately, aggregation, in an extreme form, can treat the spouses as one unit. Applying this extreme form, aggregation, in a progressive taxation system actually penalises marriage by pushing the aggregate income of the married couple into higher taxation bands. It was a type of aggregation system which was employed in Ireland prior to the decision in *Murphy* and which the courts declared unconstitutional.

In the United Kingdom, the aggregation thesis was abandoned by the Government there in 1990 in favour of individualisation. In 1980, in Ireland, George Colley, the Minister for Finance went a different route by giving a literal interpretation to the decision of the Supreme Court in *Murphy* and doubling the tax allowance available to all married couples. In effect, he had altered the aggregate method of taxation to provide a taxation advantage to marriage rather than a disadvantage.

There are competing arguments over whether that type of system is equitable, or more particularly, whether individualisation would be a more equitable alternative. The anti-individualisation argument says that as one spouse does not have paid employment, then that spouse is a dependant, and this should be taken into account for tax purposes. Equally, as one spouse is not in paid employment then the family has one less income. These factors, combined with the existence of any dependent children in the family, tend to support the argument that one-income married couples should be entitled to the same benefits as two-income couples and in that way argue against a system of individualisation.

The competing pro-individualisation argument says something different. It argues that if a one-income family is paying the same tax as a two-income family, in fact, the one-income couple are unjustifiably in a better position. James and Nobles (2006) point out that this may be due to a variety of factors such as the fact that the spouse in a one-income family does not work outside of the home and therefore does not incur transportation costs in getting to and from work. Also that as the spouse on home duties carries out the tasks around the house this has benefits for the family in that they need not engage the services of a third party to carry out that work,[22] or avail of day care.

[20] Rowthorn, *Notes on Family Taxation* (Cambridge) [1999]
[21] See James and Nobles, *The Economics of Taxation*, (2006, FT Prentice Hall).
[22] James and Nobles, *The Economics of Taxation*, (2006, FT Prentice Hall).

There is also an argument that a joint taxation system is inequitable in that it acts as a disincentive for the stay-at-home spouse to enter the labour market, as the lower earner, in a progressive system of taxation, would face a higher marginal rate of taxation. It was the Taoiseach who mentioned this argument in the Dáil in the wake of the budget announcement on individualisation.[23] The argument runs that if spouses are taxed on an individual basis then this acts as a greater incentive for labour market participation by reducing the marginal rate.

The Economic Efficiency Argument

It appears the strongest argument in favour of maintaining a distinction between married one-income and married two-income couples is the argument from economic efficiency. This argument embraces the argument already set out that the 1980-2001 system acted as a disincentive to labour market participation by imposing a high marginal rate on a spouse who wished to enter the paid labour force.

It is here argued that the economic efficiency argument is arrived at from two different perspectives: (a) from the point of view of the spouse who is 'trapped' in the home; and (b) from the point of view of those who want Ireland to achieve a higher labour market participation rate in order to honour the State's commitments at European Union level.

It appears the strongest argument in favour of maintain a distinction between married one-income and married two-income couples is the argument from economic efficiency.

The influence of the EU may come as a surprise to some observers. In order to put that influence in context, this paper will consider the arguments presented by the Government when it presented its plan for individualisation in the winter of 1999 and will then return later to the economic efficiency argument, and the two perspectives from which that argument arises.

IV. Government's Rationale for Introducing Individualisation

It is unclear how the concept of individualisation entered Government policy. In the Dáil, the Taoiseach credited the Economic and Social Research Institute (ESRI) with the concept from a pre-Budget options booklet which the Institute had published on 27 September 1999,[24] though the ESRI subsequently denied this.

The Taoiseach also mentioned an inter-departmental report published in August 1999 as the source of the policy. That report looked at the various options for treatment of married, co-habiting and one-parent families under the tax and social welfare systems as a source for the policy.

At the time of the introduction of the policy the Government claimed their aim was to remove taxpayers on average earnings from very high tax rates. It was considered that the best way to get those on average earnings off the top rate was to widen the standard rate band.

McCreevy stated:

> 'One of the main problems with our income tax system is the low level of income at which single people become liable at the top rate of tax. Single persons currently pay the top rate of tax on earnings less than the average industrial wage. One of the main difficulties with the

[23] Dáil Éireann - Volume 512 - 07 December, 1999 Financial Resolution No. 5: General (Resumed).
[24] Dáil Éireann - Volume 512 - 07 December, 1999 Financial Resolution No. 5: General (Resumed).

> current band structure is that the single person's tax band is doubled for all married couples. Consequently, I propose to move to individualisation of the standard rate band over the current and next two budgets. This will ultimately involve each individual having his or her own standard rate band. The effect of this change upon completion will be to reduce the percentage of taxpayers on the top rate of income tax from 46% to 17% of taxpayers, or 12% when exempt cases are included.' [25]

The Government considered that the most cost effective way to widen the band was to put this band on an individual basis and tax persons on what they earn as individuals whether single or married. In that way, the Government could take more tax payers off the higher rate band – and benefit two-income married couples.

In response to a recent question in the Dáil from Joan Burton TD, Brian Cowen, Minister for Finance, reiterated the Government's position when he stated that:

> 'The weakness of our income tax system at that time [1999] was how heavily it bore on single people because, in order to improve their position, we had to give double increases to married one earners and this used up scarce tax resources. If we want to go back on individualised tax bands, we will inevitably raise the relative burden on single earners for a given amount of tax relief.'[26]

The Taoiseach in the Dáil in 1999 made reference to the removal of positive discouragement to workforce participation.[27] This is the argument, already mentioned, that the previous taxation system acted as a disincentive to labour market participation by applying a higher marginal rate to the lower earning spouse.

Brian Cowen, in 1999 (when he was the Minister for Health) highlighted another aspect of the rationale for the introduction of the policy: the reinterpretation of the *Murphy* decision. It appears the Government considered that George Colley had gone too far in the wake of the Supreme Court ruling. Cowen said:

> 'Let us be clear about one thing. We have a basic problem with our income tax system which arises from the doubling of the standard rate band for married couples. This occurred in 1980 when we introduced a tax system in response to the *Murphy* judgment … all that was required to follow the *Murphy* judgment was for the Government to double the tax band for two-earner married couples. Instead, for good and sufficient policy reasons at the time, the band was doubled for all married persons'.[28]

Encouraging Married Women into the Workforce: An Under-Emphasised Rationale

Although individualisation was argued to have been introduced as a measure designed to take more taxpayers off the higher rate of tax, and to remove positive discouragement to workforce participation, another motive for the introduction of the measure may have been a far-from-subtle effort to 'encourage' women into the workforce – in this case, meaning primarily married women. At least part of the influence at work here came from the European Union.

A few months after the individualisation announcement, the Taoiseach signed the Lisbon Agenda along with the other EU Heads of States and Governments. That Agenda agreed to make the EU 'the

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[25] Dáil Éireann - Volume 512 - 14 December, 1999 Priority Questions. - Income Tax Bands.
[26] Dáil Éireann – Volume 631 - 07 February 2007, Finance Bill 2007: Second Stage (Resumed).
[27] He stated: 'The current system is weighted against the spouse who chooses to work outside the home'. Dáil Éireann - Volume 512 - 07 December, 1999 Financial Resolution No. 5: General (Resumed).
[28] Dáil Éireann - Volume 512 - 08 December, 1999 Financial Resolution No. 5: General (Resumed).

most competitive and dynamic knowledge-driven economy in the world by 2010 capable of sustainable economic growth with more and better jobs and greater social cohesion'.

In order to realise that Agenda the EU focused on three particular issues: (i) the necessary investment in research and development (3 per cent of GDP); (ii) the reduction of red tape to promote entrepreneurship; and crucially (iii) the achieving of an employment rate of 70 per cent overall and specifically 60 per cent for women.

A policy of individualisation, was clearly one which was going to assist the State in reaching its Lisbon Agenda target of a sixty per cent participation rate for women. The most recent statistics from the Central Statistics Office (CSO) show that the participation rate is now 59 per cent indicating that the State is well on course to meet its target.

RTÉ published a news item on 7 July 2000[29] which stated that the European Commission had actually encouraged the Government to address the below-average participation of women in the domestic labour-market. The Commission praised the State and encouraged Ireland to continue with the policy of individualisation.

There seems little doubt that individualisation and the EU target for workplace participation by women are inter-related. The Lisbon Agenda was a ten year plan and the Government in the winter of 1999 was well aware of its pending obligations. Whether this is in keeping with the wishes of actual couples is another question.

Other Evidence

There is other, more direct evidence that the real rationale for the introduction of individualisation was to encourage married women into the workforce. The All-Party Oireachtas Committee on the Constitution in 2006 stated that by introducing individualisation 'The Minister contended that the change would encourage more married women to participate in the workforce.'[30]

It appears this was no secret at the time, for while the Government line was a mixture of reducing the marginal rate, cost effectively taking tax-payers off the higher rate of tax and reinterpreting *Murphy*, Conor Lenihan TD for Fianna Fail in the Dail had no difficulty in saying:

> 'I am glad the Minister, Deputy McCreevy, is an honest man… He made no secret of his aims and objectives in the budget. He wanted to get more women back into the workforce.' [31]

However, it can also be argued that the current system actually 'traps' spouses in the workplace by penalising a spouse for ceasing employment.

Spouses 'trapped' in the Home

It may be argued that a policy of individualisation helps put an end to the danger of a tax system 'trapping' unwilling spouses in the home. Clearly, a system which provided greater protection to spouses who feel they are trapped, or who lack independence, or who are reluctantly 'dependant' on their partner would be welcomed. However, not at the price of a system which traps individuals in the workforce when this would not otherwise be necessary.

Or are they 'trapped' in the workplace?

However, it can also be argued that the current system actually 'traps' spouses in the workplace by penalising a spouse for ceasing employment. Under the current system of hybrid individualisation, a

[29] See http://www.rte.ie/news/2000/0707/budget.html
[30] See the 10th Progress Report of the All-Party Oireachtas Committee on the Constitution 'The Family'(2006) at p. 42.
[31] Dáil Éireann - Volume 512 - 15 December, 1999 Financial Resolution No. 5: General (Resumed).

wife will pay more taxation if her husband ceases employment and vice versa. Under the proposed system of full individualisation the tax penalty against them for making that choice will be twice as large as it is today.

There are an indeterminate number of married two-income couples who would wish to leave one spouse to care in the home but who cannot afford to do this because of individualisation. One of the biggest drawbacks of the individualisation policy then becomes its effectiveness in restricting choice – it prevents a married couple from making important decisions about whether they will themselves care for their own children full-time, as well as other important life-matters. Overall, some spouses are now almost certainly trapped in the workplace by the tax system.

In effect, individualisation is a type of social engineering which seeks to encourage workforce participation through the tax system.

Current System Unfair to Carers

In any event, the current system leads to another argument. In the same way that there are an indeterminate number of spouses who were trapped and reluctantly dependant on their spouse under the old system, which did not protect them adequately, there are equally an indeterminate number of carers who do not feel trapped in the home, or lacking in independence or reluctantly dependant on their partner. Yet those spouses are suffering at the hands of the current taxation policy. In that way, the current system, by seeking to eliminate one form or discrimination, has created another.

Individualisation is anti-choice

The current taxation system effectively imposes a tax penalty on married one-income couples. Where a two-income couple, for instance, choose to leave one spouse in the home to care for their child, for example, the Government will penalise that decision by imposing a higher rate of tax liability in a large number of cases. This acts as a disincentive to leave one spouse in the home.

Yet at the same time, the Government is seeking to actively encourage the promotion of the childcare sector through schemes such as the 'cherish children, cherish childcare' campaign[32] and by increasing the tax exemption limit for childminders from €10,000 to €15,000 this year.[33]

This demonstrates, unequivocally that the Government is not so much concerned with 'Cherishing Children' as their campaign slogan suggests, but rather, with encouraging labour market participation. What other justification could there be for a policy that penalises a parent for minding their own child in their own home, but which actively encourages a parent to send their child to a childminder in another home?

In effect, individualisation is a type of social engineering which seeks to encourage workforce participation through the tax system. It affects all married couples by considerably restricting their freedom to choose whether to leave one spouse in the home.

More worrying, it appears this type of 'anti-carer, anti-family' policy is finding an even stronger voice. The OECD recently recommended abolishing the Home Carers Allowance completely. he suggestion was described as 'ludicrous' by Fine Gael's spokesman on finance, Richard Bruton TD and as 'the most anti-family set of recommendations I have heard in a very long time' by Joan Burton TD, the Labour Party spokeswoman on Finance.[34]

[32] See here, for example: http://www.bccn.ie/

[33] Though from a different perspective, child minders have been critical of the Government saying that the exemption limit was too low at €10,000 and that there was a lack of appreciation for their role.

[34] *The Irish Independent*, 14 February, 2007.

Research questioning the Economic Efficiency Thesis

Bristow seeks to examine[35] the economic efficiency argument which has been held out as the principal reason for retaining the current differentiation between one-income and two-income married couples. He demonstrates the conflict between economic efficiency on the one hand and equity on the other.

He then charts the tax saving which two earners enjoyed in the same year. Comparing these he concludes, on the one hand, that there is no efficiency gain, and on the other hand, there is a loss of equity.

This is based on two factors: firstly, that the current system rewards two 'earners' though not two 'wage-earners' and secondly that the current system does not take proper account of the economic value of the work that is carried out inside the home.

Bristow concludes that the current system is fundamentally confused. He says there is no obvious reason why a spouse should gain a tax advantage by entering the labour force rather than engaging in domestic work, since there is no necessary advantage to society as a whole if he or she works outside rather than inside the home.

V. Conclusion

Two conclusions stem from the analysis contained in their paper. First, current different treatment of one-income and two-income married couples cannot be justified. The current system unfairly discriminates against the spouse who does not wish to enter the workforce.

It also discriminates unfairly against a two-income married couple, one of whom wishes to work in the home for a variety of reasons: to care for children or other dependants, to care for an elderly relative, to further their education, to take an extended career break not to mention a multitude of other scenarios.

Secondly, the current system uses a type of social engineering which subjects individuals to pressure to participate in the paid workforce. There is no justification for that type of Government interference in the personal sphere. Even if it could be successfully argued that there was justification for that type of interference back in 2000 when individualisation was first introduced, it can hardly be argued today when there has been an influx of immigrants into Ireland, most of whom wish to work here.

Tax individualisation also discriminates unfairly against a two-income married couple, one of whom wishes to work in the home.

In any event the Government approach is at least partly based on commitments undertaken at European level, but which can not be justified on the basis of economic efficiency; particularly on the grounds that the work done by the carer in the home is completely undervalued and not taken into proper consideration.

To use the words of Bristow, there is no obvious reason why a spouse should gain a tax advantage for entering the labour force rather than engaging in domestic work. As he states:

> 'GDP rises, but that is the result of the fact that GDP includes waged but not unwaged work. The increase in GDP does not necessarily imply any increase in the welfare of society'.

[35] Bristow, *Taxation in Ireland: An Economist's Perspective* (2004, Institute of Public Administration) at pp. 42-43.

With the proposal by the Progressive Democrats to enter Government on a full individualisation platform – an approach which would double the gap between married one-income and married two-income couples – it is vital that this matter is properly discussed in advance of the election, and continues to be the subject of an appropriate level of discussion in Irish society thereafter.

It is the contention of this paper, that far from increasing the difference between married one-income and married two-income couples, the difference in tax treatment which exists today should be equalised. This should be done in the most equitable way possible which *may* mean increasing the married tax band to €68,000. If this cannot be achieved in one budget, then it should be accomplished over a number of budgets.

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John P. Byrne is a barrister and legal researcher. He is completing a PhD thesis in law in the NUI and he is author of a forthcoming book on individualisation. The book will be broadly based on a series of articles which he wrote for *The Bar Review*, *The Irish Times*, the *Irish Examiner* and *The Irish Catholic* between December 2006 and February 2007.

About the Iona Institute

The Iona Institute is a non-governmental organisation dedicated to the strengthening of civil society. It aims to contribute to this purpose in two primary ways. The first is through making the evidence-based case for marriage, and the second is through making the evidence-based case for religious practice.

It aims to do this through the commissioning of position papers, through the formulation of social policies, through sponsoring research and opinion polling, and through organising seminars on relevant topics.

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