HECS-HELP debts and tax bills at tax time

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Guidance for tax professionals to assist clients

Introduction

You will no doubt have seen the coverage in some main stream media and social media channels that feature individual taxpayers bemoaning their unexpected tax bills following lodgment of their 2023 income tax return.

Many of these concerns are expressed by taxpayers who have a HECS-HELP[1] loan, and who were expecting an income tax refund which they have customarily received each year following the lodgment of their tax return.

This year, however, the combination of particular circumstances has meant that some tax refunds have not materialised as expected. Instead, assessments are being issued notifying these taxpayers that they have – many for the first time – an income tax liability owing to the Australian Taxation Office (**ATO**). Some taxpayers have expressed responses ranging from confusion to stronger sentiments that, in some cases, unfairly target and blame registered tax agents and the ATO for the unexpected change in their tax position.

This guidance does not constitute advice. This article is intended to assist tax professionals in educating your clients to understand what factors may have led to their change in circumstances.

Factors that may have affected your individual clients' tax positions

A range of factors have come together to alter some of your individual clients' tax positions, including:

- loan repayment income thresholds and rates;

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[1] Higher Education Loan Program. This was known as the Higher Education Contributions Scheme (HECS) before 2005.

- indexation of the HECS-HELP loan;
- when indexation is applied to HECS-HELP debts;
- tax withheld from salary and wages may not cover the repayment due for the year;
- effect of salary sacrifice arrangements;
- rising interest rates and the effect of negative gearing; and
- the end of the LMITO.

Loan repayment income thresholds and rates

Taxpayers are liable to make compulsory loan repayments (termed a **repayment liability** in this article) once their 'repayment income' reaches an indexed threshold. The amount of the loan repayment is a set percentage of their repayment income. For this purpose, the following amounts are added back onto the individual's taxable income:

- total net investment losses (which include net rental losses);
- total reportable fringe benefits amounts;
- reportable superannuation contributions; and
- exempt foreign employment income.

The loan repayment income thresholds and repayment rates for 2022–23 and 2023–24 are set out in **Table 1** below.

Table 1: Loan repayment income thresholds and rates

2022–23 repayment income	2023–24 repayment income	Repayment rate
Less than $48,361	Less than $51,550	Nil
$48,361–$55,836	$51,550–$59,518	1.0%
$55,837–$59,186	$59,519–$63,089	2.0%
$59,187–$62,738	$63,090–$66,875	2.5%
$62,739–$66,502	$66,876–$70,888	3.0%
$66,503–$70,492	$70,889–$75,140	3.5%
$70,493–$74,722	$75,141–$79,649	4.0%
$74,723–$79,206	$79,650–$84,429	4.5%
$79,207–$83,958	$84,430–$89,494	5.0%
$83,959–$88,996	$89,495–$94,865	5.5%

2022–23 repayment income	2023–24 repayment income	Repayment rate
$88,997–$94,336	$94,866–$100,557	6.0%
$94,337–$99,996	$100,558–$106,590	6.5%
$99,997–$105,996	$106,591–$112,985	7.0%
$105,997–$112,355	$112,986–$119,764	7.5%
$112,356–$119,097	$119,765–$126,950	8.0%
$119,098–$126,243	$126,951–$134,568	8.5%
$126,244–$133,818	$134,569–$142,642	9.0%
$133,819–$141,847	$142,643–$151,200	9.5%
$141,848 and above	$151,201 and above	10.0%

Source: ATO website

The repayment rate is absolute based on the specified band of repayment income; i.e. it is not applied on a marginal basis. For example, assume a taxpayer's repayment income for 2022–23 is $80,000 — which falls within the $79,207 to $83,958 band. The repayment amount is a flat 5% of the whole of the repayment income of $80,000 (i.e. $4,000), not just the excess above $79,207.

This is not likely to be understood by affected taxpayers, many of whom struggle to understand marginal income tax rates and may expect that, in a progressive tax system, the repayment rate would apply on a marginal basis.

Further analysis of the repayment income thresholds and repayment rates from 2019–20 to 2023–24 reveals another impact of inflation, but this one potentially benefits these taxpayers.

Let's consider, for example, the 5% repayment rate which applies to repayment income of:

- $75,145–$79,652 for 2019–20
- $76,355–$80,935 for 2020–21 — an increase of 1.61% from 2019–20
- $77,002–$81,620 for 2021–22 — an increase of 0.85% from 2020–21
- $79,207–$83,958 for 2022–23 — an increase of 2.86% from 2021–22
- $84,430–$89,494 for 2023–24 — an increase of 6.59% from 2022–23.

While the indexation applied to the loan balance has increased substantially, so has each band of repayment income for 2023–24.

Indexation of the HECS-HELP loan

While these loans are 'interest-free', indexation[2] is applied on 1 June each year to the part of an accumulated study and training loan[3] such as a HECS-HELP debt that has remained unpaid for more than 11 months. The indexation from 2012–13 to 2022–23 is set out in **Table 2** below.

Table 2: Indexation rates of HECS-HELP loans

Income year	Rate of indexation
2022–23	**7.1%**
2021–22	3.9%
2020–21	0.6%
2019–20	1.8%
2018–19	1.8%
2017–18	1.9%
2016–17	1.5%
2015–16	1.5%
2014–15	2.1%
2013–14	2.6%
2012–13	2.0%

Source: ATO website

As can be seen from **Table 2**, the annual indexation applied from 2012–13 to 2020–21 averaged 1.76% and did not exceed 2.6%. Although slightly higher in 2021–22, the indexation has soared for 2022–23 due to the high inflation reported for March 2023.[4]

The high indexation applied to HECS-HELP debts for 2022–23 of 7.1% compared to prior years has caught some taxpayers off-guard. In many cases, the taxpayers' repayments will be less than, or only just cover, the indexed amount. This means that the repayment is not reducing the underlying debt.

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2 Indexation is applied to maintain the real value of the loan by adjusting it in line with changes in the cost of living as measured by the consumer price index (**CPI**). The indexation figure is calculated each year after the March CPI is released and is based on financial figures collected by the Australian Bureau of Statistics over the previous two years.

3 Also includes VET Student Loan (VSL), Student Financial Supplement Scheme (SFSS), Student Start-up Loan (SSL), ABSTUDY Student Start-up Loan (ABSTUDY SSL) and Trade Support Loan (TSL).

4 Over the 12 months to the March 2023 quarter, the CPI rose 7.0%: Australian Bureau of Statistics.

When indexation is applied to HECS-HELP debts

When an employee advises their employer by completing a [withholding declaration] that they have a HECS-HELP debt, the employer adjusts the amount of tax withheld from the salary and wage payments to include additional tax (depending on the amount of the employee's salary or wage).

While the additional tax is withheld weekly, fortnightly or monthly throughout the year by the employer to take account of the HECS-HELP debt, withheld amounts are not applied against the HECS-HELP debt until after the end of that income year, when the employee lodged their tax return. That is, the compulsory repayment occurs only once the tax return is lodged.

This means that indexation is applied to the balance of the loan without taking into account any additional tax withheld during the year. While it is not the intention of this article to express a policy position on this, we note that this issue is not understood or expected by affected taxpayers.

Tax withheld may not cover the repayment due for the year

Multiple jobs, or moving jobs during the year, can increase salary and wage income or lead to pay rises when moving to a new job. An employee may have given their employer the wrong information or, in moving jobs, omitted to tick the box on the withholding declaration advising their new employer to withhold additional tax because they have a HECS-HELP debt. Further, employers do not have visibility over income earnt by their employees from other employers.

This can result in insufficient amounts being withheld from salary and wage payments throughout the year to cover the employee's HECS-HELP repayment obligation for the year. This could leave the employee with a large tax debt at the end of the income year.

Effect of salary sacrifice arrangements

Employees who enter into a salary sacrifice arrangement can reduce their salary in favour of receiving reportable fringe benefits. The lower salary reduces the amount of tax withheld. However, the amount of the reportable fringe benefit is included in the amount of repayment income which determines if the employee has a repayment liability and the repayment rate.

The interaction of the reduced tax withheld due to the salary sacrifice arrangement with the inclusion of reportable fringe benefits in repayment income may not be understood or expected by affected taxpayers.

Rising interest rates and the effect of negative gearing

Where a taxpayer has negatively geared investments such as a rental property, the loss from the rental activity reduces their taxable income. However, total net investment losses (which include net rental losses) are added back and included in the taxpayer's repayment income.

The rapid rise in interest rates over the past 15 months:

- may give rise to larger negative gearing losses; and
- has meant that taxpayers with savings in bank accounts have higher amounts of interest income to declare in their tax returns.

Both of these can cause a taxpayer's repayment income to increase, affecting their repayment liability. This may not be understood by taxpayers and may have caught them off-guard.

The end of the LMITO

While the low and middle income tax offset (**LMITO**) ended on 30 June 2022, eligible taxpayers continued to have visibility of and receive the LMITO through the 2022–23 income year as they lodged their 2022 tax returns, and many received their refunds.

The former Morrison Government and the current Albanese Government have been clear in stating that the temporary offset would not be extended beyond the end of the 2021–22 income year, however many taxpayers are only now realising the effect of no longer being entitled to the LMITO as they start lodging their 2023 tax returns. The maximum amount of the LMITO was only $1,500, but the impact of its removal is enough to convert some tax refunds for 2021–22 into tax liabilities for 2022–23.

How to deal with this now?

Many registered tax agents are facing pressure from their clients as expected refunds fail to materialise. In some cases, agents are being blamed for the lack of tax refunds and unexpected tax bills. The ATO is similarly being unfairly blamed for administering the law as it currently operates. Clear explanations as to why a taxpayer is facing an unexpected tax bill can assist in dealing with confusion and misunderstandings.

Many of these taxpayers are now facing tax bills for the first time. This may mean that agents and the ATO will need to engage with taxpayers who may be unfamiliar with owing a tax debt, or the implications of not paying it.

The financial pressure on some taxpayers associated with unexpected tax bills comes amid difficult economic conditions, with rising interest rates affecting mortgage repayments, increasing rents for tenants and high costs of living.

The ATO has a range of support options and services to assist taxpayers who are having difficulty paying their tax debts.

Further guidance and information

Further guidance and information are available from the Government's Study Assist website.

If you have any specific concerns that have not been outlined above, please email taxpolicy@taxinstitute.com.au.