COMMENT

Family-Based Tax and Transfer System – Issues for Income Tax and Other Public Policies

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Abstract – The articles by Allègre *et al.* (2021) and André & Sireyjol (2021) document in detail, using microsimulations, the redistributive impacts of the familialization of the income tax, and thus contribute to the important debate on this specific system of household income taxation in France. To discuss their results, we first propose to review the history of this specificity, which refers to the question of contributory capacity and its origin in the 1789 *Déclaration des Droits de l'Homme et du Citoyen*. We question its interpretation through the concepts of decreasing marginal utility and equivalence scale and its scope of application, the income tax or the whole system of taxes and transfers. Finally, we question the unit of evaluation: the individual or the family.

JEL Classification: D31, H24, H30, H31, J12, J16

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This short thematic section brings together two papers assessing the distributional impacts of the family-based income tax system in France. Guillaume Allègre, Hélène Périvier and Muriel Pucci (Allègre et al., 2021) focus on the marital tax quotient (joint taxation of couples who are married or in a civil partnership) without analysing the scheme for dependants. They carry out three simulations of reforms altering the form of this joint taxation. Mathias André and Antoine Sireyjol (André & Sireyjol, 2021) analyse the effect, without simulating any alternative reform, of both the marital and family tax schemes (taking dependants into account).

These two papers closely document the redistributive aspect of this specific system for taxing household income in France, and thus contribute to the important debate about these schemes. The argument often put forward for defending the latter is 'fiscal neutrality' between families of an identical composition (two families of the same composition earning the same income pay the same tax) or the argument that the schemes allow each household – regardless of their composition – to be taxed according to their ability to pay (which is a constitutional principle). Conversely, they are also criticised for perhaps not being so neutral in their effect. even in regard to identically constituted households, and for not properly matching ability to pay when considering households of differing compositions (Carbonnier, 2016 and Allègre et al., 2021). These schemes are also particularly favourable to the wealthiest households, which lessens the progressive nature of the tax (Allègre et al., 2021 and André & Sireyjol, 2021). Lastly, a side effect of the marital tax scheme is to discourage women who are married or in civil partnerships from playing a part in the labour market (Carbonnier, 2020).

In order to discuss the results of these microsimulation analyses, it is interesting to look back at the history of this specific income tax scheme in France. This helps understanding of the different motives that governed the construction of this system in order to interpret the results of both papers in light of these objectives. It also serves to inform debate about conceptions of taxation and fiscal justice. In order to do this, firstly we reconsider the issue of contributory capacity or ability to pay and its origin in the 1789 Déclaration des Droits de l'Homme et du Citoyen. We question it in several ways: firstly as regards its interpretation through the concepts of decreasing marginal utility and equivalence scale; and then in regard to its scope, income tax

or the entire tax and transfer system. Lastly, we examine the unit of assessment: the individual or the family.

Payment of Taxes According to Ability to Pay

The primary motivation for establishing the tax system based on the marital tax quotient (QC) and family tax quotient (QF) is to take into account the ability to pay as measured at family level. This consideration is of a constitutional nature as it is inscribed in the 1789 *Déclaration des Droits de l'Homme et du Citoyen*, appended to the constitution of 1958, which is currently in force in France. However, within the whole constitution, the part relating to this issue is limited: "A common contribution is essential for the maintenance of the public forces and for the cost of administration. This should be equitably distributed among all the citizens in proportion to their means".

So, constitutionality is dependent above all on the Constitutional Council's interpretation of distribution in proportion to means. Such a principle can be interpreted in very different ways. Even prior to the Déclaration of 1789, Adam Smith (1776) wrote about a similar principle: "The subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state."

While the first part of Adam Smiths' sentence is almost identical to the French constitutional principle, the second differs greatly from the current idea of ability to pay. In fact, the 19th century saw great debate on this matter and, consequently, on the proportionality or progressive nature of the tax, as recounted in detail at the end of the century by Seligman (1896). Aside from the proponents of a contribution in accordance with the benefit received (partially picking up on Smith's argument as, given public service mainly concerns security, it is proportional to protected income), the important point of the debate is what we now call the decreasing marginal utility of income. Developed mainly at the end of the 19th century by the founders of Marginalism (William S. Jevons, Carl Menger, Léon Walras and then Alfred Marschall), its main arguments were already evident in Daniel

^{1.} Translated from 1789 Déclaration des Droits de l'Homme et du Citoyen, Article 13

https://www.legifrance.gouv.fr/contenu/menu/droit-national-en-vigueur/constitution/declaration-des-droits-de-l-homme-et-du-citoyen-de-1789

Bernoulli's solution to the 'Saint Petersburg Paradox', back at the start of the 18th century. The principle is that the utility of a euro is not the same for everyone: a person who is richer than someone else has already provided for all their greatest needs before spending their last euro, so the utility of that final expenditure is therefore lower for this wealthy person than for a poorer person who is using it to pay for more basic consumption.

This argument lies behind the conception of a capacity to contribute to public finances that increases proportion to one's income, leading to the progressive nature of the tax. Now, as is clearly explained by Allègre *et al.* (2021) and André & Sireyjol (2021), the marital and family tax quotients only have meaning within the framework of a progressive income tax. It can thus be seen that conceptions alter with changes in society and it must be understood that what underpins the current tax scheme is clearly the modern interpretation of a text, which was interpreted differently when written 250 years ago.

The revolutionary interpretation was, indeed, closer to that of Adam Smith and the idea of proportionality. Eager to put an end to multiple taxes, and to indirect taxes in particular, the revolutionaries sought to introduce a single contribution, as proportionate to income as possible. To avoid any breach of household privacy (a criticism still made in parliamentary debates when introducing progressive income tax at the start of the 20th century), a set of four taxes based on the external signs of wealth were chosen: an occupancy tax on the value of accommodation (gradually changed to the recently abolished housing tax); a land tax (leading to the taxe foncière, property tax); a trading licence (trade tax which was changed in 1976 to the business tax which in 2009 in turn became the Contribution Économique Territoriale, local business tax), and the now-abolished tax on doors and windows. These taxes were not progressive but attempted to take ability to pay into account through a principle of proportionality in relation to the external signs of wealth.

So, it was only in 1914, slightly after but following straight on from other industrialised countries, that France introduced a progressive income tax. The question then arose of the applicable unit when levying this tax. The strong family basis of the social structure led to the household being chosen as the applicable unit. Initially, the family was only taken into account through tax cuts, rebates and allowances. It was only in 1945 that the major reform introduced the

principle of the marital tax quotient and family tax quotient, therefore constituting a relatively new mechanism (in respect of Article 13 of the *Déclaration des Droits de l'Homme et du Citoyen*) in tax history, even though it may seem quite old in view of the major social changes that have taken place since World War II, as noted by André & Sireyjol (2021).

Equivalence Scales

Consideration of the progressive ability to pay at household level leads to the matter of equivalence scales. Just as foregoing 5% of your income when you have €1,000 a month to live on has more impact than foregoing 5% of your income when you are earning €10,000 (progressivity principle), a 5% reduction in the income of a couple earning €3,000 a month has a greater impact for them than for a single person earning the same total amount of €3,000. With their €2,850, a single person can meet more of their major needs than a couple with this same total income. That is why household-based systems put mechanisms in place to reduce taxation of couples. From 1914 to 1945 in France, this was a matter of tax allowances and cuts; since then, it has concerned the principle of the marital tax quotient.

However, the current marital tax quotient amounts to regarding the 5% levied on a single person earning €1,500 as being as having the same impact on them as the 5% levied on a couple earning €3,000, which amounts to saying that a couple gets the same satisfaction from their consumption of €3,000 as a single person gets with €1,500. Now this is not the case, due to economies of scale: a couple does not need to spend twice as much as a single person on their housing to derive the same satisfaction, as there is no need to double the amount of electrical appliances, have two internet subscriptions, twice the amount of heating, etc. Equivalence scales are normally used in order to take these economies of scale into account, with the standard, according to the modified OECD scale, being to regard a couple as needing one and a half times the income of a single person to derive the same utility from consumption. That is why Allègre et al. (2021) test the effect of a reform that would retain a marital tax quotient but aligning it with this equivalence scale. They thus find that the current system gives couples an advantage and, due to the progressive nature of the tax, to a greater extent, the wealthier they are.

Of course, this equivalence scale standard is only a convention and much debated in the literature, as noted by Allègre *et al.* (2021). As shown above, it depends primarily on the composition of the basket of consumer goods and the proportion of goods that can be shared within it. Housing is a form of such goods with a significant impact on household budget, thus strongly governing the equivalence scale. And there is great variation between households in the proportion of their budget accounted for by housing costs.

Firstly, housing is a staple and, as demonstrated by Carbonnier (2019), the ratio for the rental value of the occupied property to household income decreases considerably with level of income. Moreover, the proportion of budget accounted for by housing costs varies greatly by region within France (Carbonnier, 2021), leading not only to large differences in living costs but also to large regional differences in equivalence scale. The income tax is designed to compensate for the differences in standard of living related to family composition, but not to the household's geographic location, even though the two interact.

In addition, occupancy status (tenant vs. homeowner) is not taken into account. But when comparing two households of the same composition and the same income, the one that owns their own home obviously has a higher standard of living (and ability to pay) than the one having to use part of their income to pay their rent. In other words, a household's income exceeds its simple monetary income and includes income from capital in kind, constituted by the housing services from which the household benefits due to its property wealth. If income is defined as the sum of consumption and variation in wealth, living in one's own home clearly constitutes income in the sense that this consumption of housing services does not reduce the stock of property wealth. For this reason, some income tax systems seek or have sought to include this income – known as net implicit rental income – in the tax base. This is still the case in Switzerland and was the case in France up until 1965.

Coverage of the Constitutional Principle

The French income tax system strives hard to apply the principle of Article 13 of the *Déclaration des Droits de l'Homme et du Citoyen* to differences in family composition but not to regional differences in the cost of living or differences in ability to pay depending on home occupancy status. This endeavour is not new: back in the 17th century, through an

edict issued in 1666, Colbert exempted young married couples under the age of 21 and families with more than ten surviving children from the tax known as the '*Taille*' (Clamageran, 1867, p. 623). With the creation of the income tax in 1914, schemes relating to family were significant: besides tax allowances and cuts, there were heavy penalties for single people over the age of 30 and for couples who remained childless more than two years after the date of their marriage (Piketty, 2001).

It is evident in these examples that consideration of the family in tax matters goes far beyond the question of fiscal neutrality and includes motivations connected with morality and the promoting of a higher birth rate. Indeed, the citation from Allègre *et al.* (2021) of the explanatory memorandum for the 1945 Bill introducing the marital tax quotient includes the term 'immoral' and not 'unfair' or 'non-neutral'.

Returning to the example of differing ability to pay depending on family composition and region, it is notable that public policies seek to compensate for regional inequality but consider this to be done through mechanisms others than the income tax, whereas it is hard to conceive of an income tax not taking family composition directly into account. Now it does not seem absurd to think that the principle of Article 13 of the *Déclaration des Droits de l'Homme et du Citoyen* does not specifically concern income tax but rather the entire tax and transfer system.

At the time this Article 13 was written, no similar tax to income tax existed and, what is more, levies were conceived as having to be proportionate to income and not progressive. Public spending was seen as relatively simple - "maintenance of the public forces and (...) the cost of administration" – and monetary transfers only concerned the mandatory levies to finance this expenditure. So, Article 13 applies to these mandatory levies as a whole, referring to them in the singular as "a common contribution". Today, it appears that taking account of families' ability to pay is focused on income tax and not on the other mandatory levies (VAT, the CSG General Social Contribution, corporate tax, property tax, etc.). However, the income tax only represents a small proportion of funding for public spending: the Finance Bill for 2020,² the last one prior to the Covid-19 crisis, measured or estimated revenue from income tax as just 3% of GDP, or

^{2.} Finance Bill for 2020, Economic, Social and Financial Report, 2019. https://www.tresor.economie.gouv.fr/Articles/913ca061-93bb-44c7-a860-04468507d5bb/files/b1ac7248-60bc-4094-9029-1761bae604c2

5.8% of public revenue and 6.9% of mandatory levies for each of the three years from 2018 to 2020.

Above all, public spending is made up of allowances, not just "maintenance of the public forces and [the] cost of administration". Now allowances account for a significant proportion of redistribution, more than that generated by mandatory levies, not only in France but also in most industrialised countries (Guillaud et al., 2020). One might therefore regard the modern interpretation of Article 13 of the Déclaration des Droits de l'Homme et du Citoven as not concerning the rate of income tax according to ability to pay but rather the overall redistributive characteristics – vertical redistribution according to standard of living and horizontal redistribution according to taxpayer characteristics – of the tax and transfer system as a whole.

The various social welfare schemes, which are in fact more redistributive than the income tax, consider household composition in a very different way. Bargain *et al.* (2017) measure the implicit equivalence scale for several transfers in France. They find a weighting of 1 for the spouse or civil partner in the case of the marital tax quotient, 0.5 if childless and 0.3 if there is a child for the *prime d'activité* (an in-work benefit); with the single parent allowance, this weighting can change to 0.22 if childless, 0.09 with one child and -0.04 with two children; and for housing benefits, they find a weighting of 0.28 if childless and 0 if there is a child.

Isolated Impact of a Mechanism versus Overall Modification of the Transfer System

Not only do these various components of redistribution apply different equivalence scales but they are even applied to different units. Income tax only takes married couples and those in civil partnerships into consideration, whereas social welfare benefits consider cohabiting partners in general. That is also why Allègre et al. (2021), in their simulations of potential reforms, alter this rule to allow cohabiting partners to access the same tax benefits as couples who are married or in a civil partnership (a half-tax unit for the spouse or a cap on the advantage gained). This in fact generates less tax revenue due to the reform (tax gains for the cohabiting taxpavers concerned). This is one of the reasons why these measurements are not directly comparable with those of André & Sireyjol (2021), who focus on measuring the advantage gained under the current system (with a wholly individualised reference).

This question of taking account of redistribution in relation to the tax and transfer system as a whole, rather than to a given mechanism poses another question concerning the interpretation of the results of the two papers commented on here. The budget is not kept constant for the reforms that are simulated either explicitly (Allègre et al., 2021) or implicitly (André & Sireyjol, 2021) and in reality they would therefore necessitate some form of counterbalance – e.g. cuts in other public revenue or increased spending – which in turn would have a notable and variable impact on distribution depending on the choice of cuts. We understand that the authors do not prejudge such choices and concentrate on the specific effects of the marital and family tax quotients, but it is important not to forget this when interpreting their results.

One of the case studies, however, does maintain a constant budget: this involves turning the family tax quotient into a flat-rate tax credit, estimated by André & Sireyjol (2021). In this simulation, abolishing the family tax quotient generates an increase in income tax revenue - paid by families due to the loss of the tax incentive – which is redistributed to families in a flat-rate way, i.e. regardless of their income (a form of non-means-tested family allowance). The heavily regressive aspect of the family tax quotient then becomes apparent: such a reform would not lead to any households at the very bottom of the standard of living distribution being worse off nor would any at the very top be any better off (with a gradual reduction in winners and gradual increase in losers along this standard of living distribution). Average gains would be very strong for the poorest households (up to 8.5% of income) whereas losses at the top of the distribution would be shared out more (up to 1.5% of income).

On this matter of transfers to compensate for the cost of children, Favrat et al. (2015) measure the distributive profile for taxes and transfers as a whole. It appears that means-tested mechanisms (family allowances or taking children into account when determining social welfare benefits) compensate for the regressivity of the family tax quotient, leading to virtually constant total amounts per child throughout the standard of living distribution. However, splitting a constant allowance between various mechanisms, including some that are progressive and others regressive, is not neutral in its effect as the social stigma attached to these various mechanisms – and consequently to the different household types benefiting from them – are not the same.

Unit of Assessment of the Constitutional Principle

In conclusion, it is impossible not to deal with an essential point raised by these two papers, namely the place of the family in public policies and in our society more generally. Both papers describe the socio-demographic changes, in particular the increasing participation by women in the labour market and the growth in childcare provision for young children and infants. More generally, it is society as a whole that has changed. While the family is still an important level in the social structure, it is no longer the inevitable intermediary between the individual and the community. For example, couples are a long way from pooling their entire resources (Ponthieux, 2012). In 2010, 36% of them were not doing so, with that figure rising to 42% for the wealthiest couples. That trend seems more pronounced among "younger" couples: 55% of couples who have been living together for five to ten years do not pool all their resources, rising to 69% in the case of couples who have been living together for less than five years.

There is also an ever-increasing number of separations (INSEE, 2020, pp. 26–27). So, the choices made in the context of marriage or a civil partnership are not permanent. As a result, basing public policies on the family is not without consequences for individual freedoms. Choices made notably in response to the joint income tax assessment system for couples in marriages or civil partnerships may prove costly following a separation. Although the marital tax quotient is in principle gender-neutral, it has a heavy impact on women's choice of participation in the labour market. This has been confirmed both statistically (see the references cited in the two papers and more recently by Carbonnier, 2020) and in the context of ethnographic research. In their analysis of divorce negotiations, Bessière & Gollac (2020) recount, in particular, a statement made by one woman in a conciliation session in divorce proceedings: "We decided together that I would work part-time. So as not to give even more to the tax man as we're already paying a lot. I'm not about to start working full time at the age of 54."

This statement illustrates not only the choice but also the long-term consequences of that choice. These long-term consequences are also observed in the statistics, with Lequien (2012) showing that giving up work to care for children has very long-term consequences on mothers' careers, even long after they have returned to work. Admittedly, statutory provisions at the time of the

ruling are supposed to provide compensation, but Bessière & Gollac (2020) show that this compensation is difficult and rarely achieved in practice.

Other effects of public policies' emphasis on the family are evident not only when couples separate but also when they set up home together as a couple. The National Assembly recently held a debate on this subject, specifically concerning the joint assessment of a couple's income in regard to the Allocation Adulte Handicapé (AAH, an allowance for adults with disabilities). Indeed, for this allowance, as for the welfare system as a whole, the notion of a couple includes common-law partnerships, i.e. unmarried couples, not in a civil partnership. So if a disabled person entitled to the AAH decides to live with their partner, they lose all or part of their allowance, depending on said partner's income. For any cohabiting couple, this amounts to taxing the partner of the disabled person for the latter's care, so they cover the cost of care instead of and in place of the welfare system. That creates a very strong barrier of responsibility in the process involved in setting up home as a couple and therefore puts a strong break on conjugality for people with disabilities who receive the AAH.

Various opposition parties met on 17th June 2021 to propose abolishing the joint assessment of a couple's income for AAH purposes, but it was rejected by the government majority. During the debates, while recalling the main grievances concerning the joint income assessment for AAH purposes, a majority Deputy accounted for the government's refusal to abolish the joint income assessment procedure by referring to a commitment to a social model based on the family and not on individuals: "[The AAH] works like other minimum social security benefits, which always take household resources into account. (...) We are hearing reports on the ground, from organisations and our fellow citizens, that some people with disabilities are abandoning the idea of setting up home with their partner so as not to suffer a reduction in or even loss of their disability benefit. We also hear that this operation can lead to a situation of financial dependence within couples and a possible drift towards ill-treatment of the benefit recipient. (...) If we calculate minimum social security benefits on the basis of individual income, what impact will this have on our social model which is currently founded on the household and marital position? (...) The La République en Marche group could not bring itself to call national solidarity into question – I'm talking here of values and not of rights - as much out of our conviction and

commitment to family values as out of the need to continue our efforts in favour of an inclusive society. The calculation of tax and benefits based on individual rather than joint income is a political, philosophical and technical issue that completely changes not only our model of society but also our operators' organisation."

Similar effects of the assessment of income at the couple's level in regard to social security benefits can be found in the case of single mothers who may be forced to choose between welfare support and living with a partner: Bessière & Gollac (2020) devote part of their book to the case of the Allocation de Soutien Familial (ASF, a family support allowance), which can kick in if a father does not pay child maintenance for his children – or supplement it if it is too low – but which the mother then loses if she sets up home with a partner again. The need for any potential partner to take up where welfare benefits leave off is thus similar to the case of AAH and therefore places significant constraints on the potential for conjugal life for benefit recipients.

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It therefore appears that continuing to take the family as the unit of application for French social welfare policies, in the context of a society where individual freedom within the family is increasingly important, may lead to the creation of constraints on citizens' individual development. The two papers commented here concur in their illustration of this as regards the taxation of income. Aside from some opposite effects on a minority, the marital and family tax quotient system benefits families to a greater extent, in overall terms, the wealthier they are.

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^{3.} Translated from the statement by Véronique Hammerer, La République en Marche Deputy (majority), member of the Law Committee, in the first session on Thursday 17th June 2021 at the National Assembly. https://www.assemblee-nationale.fr/dyn/15/comptes-rendus/seance/session-ordinaire-de-2020-2021/premiere-seance-du-jeudi-17-juin-2021#2556693

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