

## Tax Politics and Women's Equality in West Germany and Denmark – with a Focus on the 1950s

Tax systems have a significant influence on the division of labour – this applies especially with regard to gender.<sup>1</sup> The potential for controlling employment through tax politics was very familiar to the political actors of the 20th century. In tax law, rules concerning marriage or family are generally formulated as neutral where gender is concerned, as the principles of subjective liability to tax or the degree of tax burden. However, as with any other law, tax law does not function regardless of sex. The taxation of married couples or households has been deliberately used to exclude a section of the population that was seen as a reserve for the labour market: women and especially married women. My thesis is therefore that in both countries, Germany and Denmark, tax politics were also labour market politics. Furthermore, tax politics were to fulfil another function. They were used to put through certain social norms: the housewife marriage, the assistant wife marriage (the woman earning a small additional income) and finally the double income marriage. The main question of this article is to what extent tax law met these socio-political expectations and if it could indeed absorb or turn social changes and developments.

In the 1950s, despite great differences on the legal level in respect to the equalisation of legitimate and illegitimate children, family and marriage, there were comparable standard attitudes towards marriage, sexuality and the family in Denmark and in West Germany. Analogous to the Federal Re-

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1 Per H. Jensen, *Komparative velfærdssystemer: Kvinders reproduktionsstrategier mellem familien, velfærdsstaten og arbejdsmarkedet*, Copenhagen 1996, pp. 133-143, here p. 136. See also Maren Wichmann-Siegfried, *Mellem offentlighedens søgelys og velfærdspolitikens skygge. Familien i Danmark og Vesttyskland i 1950'erne*, in: Hilda Romer Christensen/Urban Lundberg /Klaus Petersen (eds.), *Frihed, lighed og tryghed. Velfærdspolitik i Norden*, Skrifter udgivet af Jysk Selskab for Historie (2001), no. 48, pp. 241-235; *Arbejderbevægelsen og familien. Special issue. Arbejderhistorie* (2000), no. 4; Merith Niehuss, *Familie, Frau und Gesellschaft. Studien zur Strukturgeschichte der Familie in Westdeutschland 1945-1960*, Göttingen 2001; Robert G. Moeller, *Protecting Motherhood. Women and the Family in the Politics of Postwar West Germany*, Berkeley et. al. 1993; Kari Melby/Anu Pylkkänen/Bente Rosenbeck/Christina Carlsson Wetterberg (eds.), *The Nordic Model of Marriage and the Welfare State*, Copenhagen 2000.

public of Germany, Denmark also described the 1950s as the "golden years of the family". The reasons, however, were different: whereas the nuclear family and the one breadwinner-model or "housewife marriage" were becoming standard institutions in Denmark, they had already become so in Germany in the 1930s and represented a postulate which was to be upheld.

The comparison bases on the debates in the Danish and German Parliament as on pieces and statements of the women's organisations.

This investigation focuses, in the main, on the 1950s. They are a good starting point because there were similarities in both labour market structures and way of life or family organisation in both countries. The crisis of the family, women in gainful employment and the general structure of state welfare were discussed in both countries and those discussions were of great public interest. The discussion about the tax system actually represents the debate about "woman's place in society". It will be shown that the similarities of argumentation, as well as the differences in the results, were larger than one would expect.

The situation of married or unmarried, employed or unemployed women will serve as an example for gender-specific differences of taxation in this article. There can be different criteria for taxation: either taxation of the individual or taxation of the family, or rather the household. Taxation depends on income, family status (married, single, divorced or widowed), the number of children amongst other criteria. Therefore, there is an educational effect in tax law, as it "subsidises" personal decisions such as marriage, or as it taxes different types of income with higher or no taxes or offers the opportunity to claim deduction. Forms of taxation have an influence on mutual commitment and dependence<sup>2</sup> and on individual decisions: What would be best for family economics? Live together as a married or unmarried couple? Gainful employment of both spouses or the wife's limitation to housework and caring for husband, children and elderly people in need of attention?

When estimating the taxation of married couples, we generally differentiate between two possibilities: joint taxation or taxation of the household, and individual or separate taxation. Joint taxation means adding up both incomes, and from that sum estimating the income tax to be paid. In separate or individual taxation, the tax levels of husband and wife are estimated independently from each other. The difference has a great effect especially on the employment of wives and is used in tax legislative to regulate female labour.<sup>3</sup>

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2 Jensen, *Komparative velfærdssystemer* (note 1), p. 137.

## 1. Taxation of Married Women in the Federal Republic of Germany<sup>4</sup>

### 1.1 *Tax politics as a regulating agent on the labour market*

Since the late 19th century, conjugal tax law was built on the principle of household taxation. The income of a household was seen as a joint product of all its members. With the rise of salaried employment, individual income gained significance. Since the year 1900 the salary of children had already been separated from the taxation of households.

It is not the case that tax politics were only used to establish moral ideas of family life and to meet the needs of labour market after the Second World War. In the 1920s, married women were already subject to according measures. Whenever the situation in the labour market eased, the discrediting slogan of the "double-income family" appeared. If a larger work force was needed, the married woman was happily employed. It was also in the 1920s that the individual taxation of spouses became possible, if both were in gainful employment. Due to this extension in tax law, an increasing number of employed wives were taxed individually from 1925 onwards.

However, this social acceptance of married women in gainful employment came to a temporary end in 1934. The National Socialists reintroduced the general joint taxation of married couples. As the "additional" income of the wife led to a higher progression, the gainful employment of married women was less attractive from then on.<sup>5</sup> It was to be welcomed that most married women would give up working, as this relieved the labour market and also corresponded to the national socialistic idea of women as housewives. However this principle of tax politics proved to be ineffective during the war. The government was trying to win married women as badly needed work forces in the armaments industry. Married women's income out of salaried employment was thus taxed separately again in 1941. This of course meant that most of the working wives were no longer subject to joint tax-

3 Astrid Joosten, *Die Frau, das "segenspendende Herz der Familie"*, Pfaffenweiler 1990, p. 58.

4 For the current situation in Germany: Aneemarie Mennel, *Frauen, Steuern, Staatsausgaben. Subventionen für das Patriarchat*, in: Ute Gerhard/Alice Schwarzer/Vera Slupik (eds.), *Auf Kosten der Frauen. Frauenrechte im Sozialstaat*, Weinheim/Basel 1988, pp. 79-116.

5 See also Christine von Oertzen, *Teilzeitarbeit und die Lust am Zuverdienenden. Geschlechterpolitik und gesellschaftlicher Wandel in Westdeutschland 1948-1969*, Göttingen 1999, pp. 187-209; Ines Reich-Hilweg, *Männer und Frauen sind gleichberechtigt. Der Gleichheitsgrundsatz (Art.3 Abs.2 GG) in der parlamentarischen Auseinandersetzung 1948-1957 und in der Rechtsprechung des Bundesverfassungsgerichtes 1953-1975*, Frankfurt/Main 1979; Joosten, *Frau* (note 3), p. 58 note 66.

tion. As the Allies confirmed this exemption in tax law, the general rule in 1950 was joint taxation, but wage-earning married women were taxed separately and independently.

### *1.2 Equal rights versus protection of the family in the 1950s*

In the 1950s, the formation of tax law became a severely disputed subject where conservatives (CDU), who had been governing the country since 1949, had to face a lot of opposition. The taxation of women was, like the reform of family law (1949-1958), a very delicate subject, in which the equality of men and women stood in supposed or actual conflict with the protection of the family. Both principles had gained constitutional status in the constitution (*Grundgesetz*) of the newly founded Federal Republic of Germany (1949).

The conservative government tried to confirm their idea of household taxation and housewife marriage in tax law throughout the 1950s. Changing ministers of Finance tried with clockwork regularity to abolish the ill-favoured separate assessment. Motives of government parties were however different. The minister of Family Issues and some conservative members of parliament, supported by the church, regarded joint taxation of spouses as an appropriate means to fight employment of married women and especially of mothers. They saw household taxation as if it were a penalty tax for working wives and mothers. Other conservatives however argued that a family had to be seen as a productive unit and that its members could not be taxed individually. Ministers of Finance of course had always primarily associated household taxation with higher tax income.

The conservative government tried to abolish the exemption of 1941 and to reintroduce joint taxation with an income tax bill first launched in March 1951. Apart from the expected positive effect on the labour market (unemployment numbers were high), the minister of Finance expected an additional tax income of 100 million DM. But even the steering committee, led by CDU-members, recommended continuing taxing spouses individually.<sup>6</sup>

The opposition and nearly all women's associations doubted that a joint taxation rule could be reintroduced without conflicting with the principle of equality stated in the constitution. A female social democratic member of parliament called these thoughts an "attack on the legal means to establish equality of women, which according to the constitution had to be completed

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6 Neuburger (CDU), *Verhandlungen des Deutschen Bundestages (Verh. BT)*, (Negotiations of the Federal Republic Parliament), 1st election period (EP), 142nd session, p. 5612.

by 31 March 1953".<sup>7</sup> Apart from the unjust tax treatment of women, she believed this plan would be like a punishment for marriage and suspected that the Conservatives were trying to artificially keep alive the vanishing housewife who was already a relict of the past.<sup>8</sup> Time and again the joint taxation was called "marriage punishment tax" and was accordingly seen as an obstacle to marriage. This argument bore some weight which should not be underestimated.<sup>9</sup> Just like the equality of sexes, the protection of marriage and family also desired that the exemption of 1941 remain valid – according to the opposition. Opponents to joint taxation suspected that young couples could choose to live in common law marriage for tax reasons. The results of such a decision would mean a dramatic change in or loss of morality. It was stated: "Practically, the household taxation will lead to the habit of marrying very late, which is not desirable for reasons of population policy, or people will chose to live together without being married which cannot be desirable for reasons of morality."<sup>10</sup> Social democrats shared these fears: "People would prefer to cohabit in a cheaper way than as a married couple, that is the form of cohabitation which is generally called common law marriage. [...] A second effect could be that for tax reasons people would decide on a sham divorce in times of financial crisis. A pretence that would indeed be worthwhile after a couple of months."<sup>11</sup>

Supporters of the exemption raised another point that referred to the difficult financial situation of many families that had worsened during the war. The married woman's income was economically necessary in many families and could therefore not be taxed highly. Rather the opposite should be the case: government should be happy about and support the women's engagement.<sup>12</sup> Facing the strong resentments, representatives of government had a hard time trying to find convincing arguments for general household taxation. The later minister of Family Issues, Franz-Josef Wuermeling, tried to trigger off the fight against "double income marriages", but was not very convincing in light of the generally bad financial situation of many families. Nevertheless, the Conservatives passed the general joint taxation of married spouses with a slim majority. They then had to withdraw this law shortly

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7 Lockmann (SPD), Verh. BT, 1st EP, 142nd session, p. 5634f.

8 Lockmann (SPD), Verh. BT, 1st election period, 142nd session, p. 5635.

9 Heinz Paulick, *Der Einfluss des Steuerrechtes auf Eheschließung und Ehescheidung*, in: *Ehe und Familie im privaten und öffentlichen Recht*, vol. 12 (1955), no. 12, pp. 46-348, here p. 346.

10 Verh. BT, 1st EP, 145th session, p. 5723.

11 Lockmann (SPD), Verh. BT, 1st EP, 145th session, p. 724.

12 Wessel (Zentrum), Verh. BT, 1st EP, 145th session, p. 5722f.

afterwards, due to the massive protests of women's associations and workers' unions. The status quo thus remained untouched: households were still generally taxed as one union, *with* the exemption of the wife's income from salaried work.

In spring 1953, the minister of Finance, Fritz Schäffer, again proposed the abolition of individual taxation. Against better judgement, he associated individual taxation with national socialistic legislation. The "unjust and illogical regulation §43 EKStG [...] originates from the time of Hitler's government where women were drawn into the munitions factories without consideration of family or family life".<sup>13</sup> This regulation was only favourable to the employed woman herself and the "childless double income families".<sup>14</sup> However, even the taxpayers' union discredited the catchy slogan of "double income families" as being outdated in terms of the labour market. The data on which the minister of Finance based his arguments was wrong, the economy could not manage without female work force. As a matter of fact, childless married women stayed more often at home, whereas mothers were forced to seek employment for economic reasons. Indeed the taxpayers' lobby reached the conclusion that "§26 EKStG was based on an outdated concept of family, where the female spouse is seen economically as an addition to her husband."<sup>15</sup> Thus only a separate taxation of spouses would be possible concluded the taxpayers' statement.

The Liberals favoured, with regard to all positive reaction to separate taxation, a model following the American example.<sup>16</sup> A comprehensive solution was worked out in combination with the planned tax reform. Even CDU-members did not regard the government's proposal as a sufficient basis for a "social solution that met the needs of families".<sup>17</sup> The government therefore retreated from fundamental changes for the time being. The community of individually taxed women was even widened within a tax reform of autumn 1954. From now on, also married women who had an income from self-employed work or trade were taxed individually. Until then households in which the female spouse earned money from being self-employed belonged to such a high rate of taxation that the woman's income was taxed at 40 percent and more. After the reform of 1954, only the helping members of family were subject to household taxation.

13 Minister of Finance Schäffer, Verh. BT, 1st EP, 247th session, p. 11794; Statement of Bund der Steuerzahler, in: Informationen, 1953, no. 4, p. 1

14 Minister of Finance Schäffer, Verh. BT 1st EP, 25th session, p.12117.

15 Statement of Bund der Steuerzahler, in: Informationen (1953), no. 4, p. 3.

16 Verh. BT, 1st EP, 252nd session, p. 12116 ff., and 264th session, p. 12906 ff.

17 Verh. BT, 1st EP, 264th session.

The line of opponents to a joint taxation of spouses was long and remained united. The women's associations agreed that a joint taxation would lead to dissolution of marriages and strengthen illegitimate couples.<sup>18</sup> The union of female lawyers and economists emphasised that "it is impossible to find arguments for the tax burden of working women and mothers in the general inequality of economic circumstances".<sup>19</sup> The German Salaried Employees' Union stressed that a lot of tasks were to be mastered in the following years that required a full work force, no matter if it be male or female or both. "Its principle should not only be accepted in times of war or in times of armament boom. [...] We know from experience that the employment of housewives leads to a considerable rise of house keeping costs. Through the tax surplus of common taxation the housewife's work becomes senseless in most of the cases."<sup>20</sup> The German Housewives Association meanwhile supported a complaint against the unconstitutional joint assessment because it promoted "concubinage".<sup>21</sup> Despite the discussions in parliament, the objections of several lobbies and even scientific studies that doubted joint taxation to be in accordance with the constitution, the minister of Finance in 1955, with an essay on "spouse taxation,"<sup>22</sup> attempted for the third time within a few years to establish joint taxation. In future, the income of spouses should be added up with granted allowances. The question was raised as to whether the state had the right to support, with tax allowances, the gainful employment of a married woman in a business that was not her husband's. This would, according to Family minister Wuermeling's prejudices, result in a tendency to support those powers in society that erode family and marriage values.<sup>23</sup> He claimed in a TV discussion that eight out of marriages ended in a divorce due to the wife's occupational activities. The union of female lawyers and economists however drew a completely different conclusion from their analysis. According to their findings, most divorces could be traced back to the husband's adultery. Wuermeling did not

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18 Resolutions of the central associations and organisations from 26 January 1953, in: *Informationen* (1953), no. 2, enclosure D, pp. 1-2. Letter of Deutscher Verband berufstätiger Frauen, in: *Informationen* (1953), no. 2, pp. 3-4.

19 Letter of Vereinigung weiblicher Juristen und Volkswirte from 2 February 1953, in: *Informationen* (1953), no. 2, pp. 4-6, here p. 5.

20 Statement of Deutsche Angestellten Gewerkschaft (DAG), in: *Informationen* (1953), no. 2, pp. 2-3.

21 *Informationen*, 1953, no. 4, enclosure C, p. 11.

22 „Ehegattenbesteuerung“. Bundesdrucksache II/1866.

23 See correspondence of Wuermeling to Vereinigung weiblicher Juristen und Volkswirte from July 1955 until February 1956, in: *Informationen* (1956), no. 3, pp. 4-7.

alter his views on this issue and he had to face severe criticism: "We agree that it would be more desirable, by improving the social conditions, to enable married women to concentrate on their duties as housewives and mothers, better than carrying the double load of home and work. But as long as this change is not realised and as long as nearly half of all married working women support their disabled husbands with an admirable courage, the minister of Family Issues should not be allowed publicly to bring discredit upon these brave women."<sup>24</sup>

The causes for divorce were also of interest for the Danish authorities in 1955. There seemed to be a significant connection between the economic situation and the durability of marriages. Marriages where women earned their own income seemed to have more stability than those in which there was only one economic provider. 41 percent of the marriages with housewives or "assistant" wives were dissolved in comparison with 19 percent of those marriages in which the woman was working part time and 16 percent of marriages with fully employed women.<sup>25</sup> These results of the Danish survey also formed part of the German discussion.

The protests against the government's plans continued after the minister of Finance's essay and the tone became more aggressive.<sup>26</sup> The German Association of Female Academics feared a two-class system for married women.<sup>27</sup> As long as the woman's earning was considerably low, there were no objections to it and it did not conflict with family interests. But as soon as the joint income of both spouses exceeded 12,000 DM a year there would be doubts towards the value of the wife's earning. "They are thus especially directed to the middle class woman who has had a longer education."<sup>28</sup> The union suspected that the minister "aims to edge out the women mostly from higher professions and so to deprive them from the ruling class which is small anyway."<sup>29</sup> But before there were further parliamentary conferences, the Federal Constitutional Court passed judgement on its view of the issue.

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24 Letter from 16 December 1955 to Minister of Family Issues Wuermeling, in: *Informationen* (1956), no. 3, p. 6

25 Inga Dahlsgaard, in: *Kvinden og Samfundet*, September 1956.

26 See Statements of DAG, DGB, Frauenverband Hessen, Verband weiblicher Angestellter, in: *Informationen* (1956), no. 1; Statement of Vereinigung weiblicher Juristen und Volkswirte from 9 April 1956, in: *Informationen*, 1956, no. 4; Letter of DGB dated 25 April 1956, in: *Informationen* (1956), no. 4; Bund der Steuerzahler, in: *Informationen* (1956), no. 7-8.

27 Deutscher Akademikerinnenbund, Statement to the memorandum from 9 March 1956, in: *Informationen* (1956), no. 3, pp. 3-4.

28 *Informationen* (1956), no. 4, p. 5.



### 1.3 *The Federal High Court's verdict*

The Federal High Court passed a verdict in January 1957 which declared that §26 EKStG, the regulation of joint taxation, conflicted with the constitution. The joint taxation of spouses meant a discriminatory exemption against married couples, and therefore it was a violation of the constitution, which guaranteed special protection for marriage and the family. In addition, the "educational effect" of joint taxation, the return of working women to the household, was an intention that could not be combined with the constitution. Women should have the same legal chances to earn an economically worthwhile income. To judge married women's gainful employment negatively from the start contradicted the constitutional principle of equality.<sup>30</sup>

This verdict completely took the wind out of the Conservatives' sails. However they seized upon a side comment in the verdict, which provided a lifeline. It stated that the court might consider American splitting as a suitable solution for the conflict. It is remarkable, how then a marital taxation was passed that actually met the first claim of the Federal High Court, the protection of family, but totally ignored and thus intensified the conflict with the constitutional principle of equality.

### 1.4 *The putative compromise – introduction of splitting*

The government was now forced to review the tax law immediately. It did so in June 1958.<sup>31</sup> The main issue of the new proposal was the introduction of tax splitting according to the American model. Social Democrats however were critical that the benefit of splitting would at first only be effective from a certain high level of income onwards and thus create much social injustice. As a matter of fact, it would be working women who stood to suffer from this new method of progression.<sup>32</sup> Women's associations claimed that there would also be disadvantages for unmarried and single tax payers.<sup>33</sup> The Workers' Union demanded tax deductions for working married women.<sup>34</sup>

29 Informationen (1956) no. 4, p. 5.

30 BVerfGE, vol. 6, p. 55. See also Anna Endres, *Der Entscheid des Bundesverfassungsgerichtes*, in: Informationen, 1957, no. 5, pp. 8-9.

31 Verh. BT: 3rd EP: 1st discussion, 17th session, 13 March 1958, pp. 799-819; 2nd discussion, 32nd session, 19 June 1958, pp. 1756-1795; 3rd discussion, 33rd session, 20 June 1958, pp. 1820-1831.

32 Harms (SPD), Verh. BT, 3rd EP, 2nd discussion, 32nd session, p. 1762.

33 Statements documented in: Informationen für die Frau, 1958, no. 1, pp. 5-6.

34 Statement of DGB from March 1958, documented in: Informationen für die Frau (1958), no. 3, p. 4.

This corresponded to the tax politics in Denmark, which was attempting to relieve working, joint taxed couples. But the suggestion did not gain any significance. In April, the German Association of Female Academics, the German Women's Ring, and the Association for Educating Girls and Women, filed an extensive petition along with detailed reasons. They expressed severe socio-political doubts about the reform because it gave a subvention for the wealthy single provider of a family: "The wealthy husband of the childless homemaker is extremely and one-sidedly favoured in comparison with all other taxpayers, especially in comparison with the family man."<sup>35</sup>

The sociologist Gerhard Mackenroth had already in 1953 called for a tax policy that supported families. He emphasised that there was no reason why a non-working, childless married woman should benefit from any taxation policy.<sup>36</sup> He thought it very curious that single persons and couples where both spouses were working should finance the non-working wife of a childless husband and thus providing him succour and comfort. Women's associations demanded a general individual taxation of spouses and a continuing progression as had been provided for in the interim regulation. During a conference with representatives of the ministry of finance, women's associations repeated and reinforced their opinion that splitting should be rejected for legal and social reasons.<sup>37</sup> From a legal point of view the individual taxation of spouses would meet the current understanding of justice. From a social point of view they regarded splitting as unjust, as the higher the income the greater was the benefit from it. Furthermore the tax advantage would rise, the greater the difference between the spouses' income. The greatest benefit would then result for families in which one spouse – and most of the time that meant the woman – had no income at all.

In the second and third discussion of the law many petitions dealt with the incorporation of so-called "half-families" into the splitting rule. How was it to deal with widowed, divorced and single mothers? Representatives tried hard to put forth that "left alone mothers" could not be additionally punished for their fate by the government.<sup>38</sup> The Conservatives' objection, that a single or divorced mother received aliments or maintenance was not convincing as many fathers failed to fulfil their obligation. Still, a majority rejected the equal treatment of these women in terms of taxation.

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35 Informationen für die Frau (1958), no. 4, pp. 6-12, here p. 6.

36 Gerhard Mackenroth, in: Zeitschrift für sozialen Fortschritt (1953), p. 109

37 Report on the Meeting from 6.5.1958 in: Informationen (1958), no. 6, pp. 6-8.

38 Kalinke (Deutsche Partei), Verh. BT, 3rd EP, 32nd session, p. 1794.

The German Families' Association suspected that the legislative body would rather subsidise the childless married woman than extremely needy mothers with children. The promotion of children, and hence of the family instead of merely promoting marriage would have been more easily achieved with considerably higher child allowances. Here was a very basic conflict: The CDU claimed to promote families with many children but did indeed subsidise marriage only with the splitting system. The Social Democrats refused to vote for the new tax law, however the splitting system was introduced on the strength of the Conservatives' votes alone.

Spouses could now choose between separate and joint assessment. At the same time the splitting system according to the American model was promoted as a new taxation principle. The split taxation meant that income of "not permanently separated" living spouses would be treated as if each of them earned half of the joint income. Marriages with two full incomes thus did not achieve any tax relief. The splitting regulation had maximum effect on single-provider marriages or housewife marriages. Progression was slowed down, allowances and flat rates were doubled, which also meant a smaller tax burden.<sup>39</sup> Whereas the former regulation meant a disadvantage for married couples compared to unmarried couples living together, this disadvantage was now transferred to working wives and singles.<sup>40</sup> The minister of Family still praised the splitting concept: "If we establish the splitting system, we do so especially to the benefit of the non working housewife and mother, for the benefit of those mothers, who find their most beautiful and most important duty in carrying the home, the family, the children and the household [...] That is a very nice way to create equal rights for the non working woman and mother."<sup>41</sup>

As a matter of fact the preferential treatment of housewife marriages was now even more evident. The splitting model was an incentive to get married, not as was often and incorrectly stated for the building of a family. Other forms of family life were not subject to the benefits of these tax reforms. The not inconsiderable tax advantages for married couples compared to single people obstructed the development and increase of other modes of family life that developed out of necessity after the war. The law had a conserving effect on families in the sense of conserving traditional bourgeois roles in

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39 See Angela Delille/Andrea Grohn, *Blick zurück aufs Glück. Frauenleben und Familienpolitik in den 50er Jahren*, Berlin 1985, p. 158 note 21.

40 See also *ibid.*, pp. 136-137; Jutta Akrami-Göhren, *Die Familienpolitik im Rahmen der Sozialpolitik mit besonderer Berücksichtigung der Vorstellungen und praktischen Tätigkeiten der CDU*, Bonn 1974, p. 307.

41 Minister of Family Issues Wuermeling, *Verh. BT, 3rd EP, 25th session*, p. 1374 f.

marriage and family. The splitting model's benefits were highest when the woman was not working at all and the tax relief was low to non-existing if both spouses earned a full income. The higher the husband's income, the higher was the indirect subsidy of his wife's household and family work. As this increase in value was linked to the husband's salary, the dependence of the wife also increased and thus promoted "family work" even in higher social classes. In this way, the regulation had a clear effect on the labour market and social-political norms. This system of marital taxation was indeed a good argument against the gainful employment of the woman in the marital struggle about the division of labour.

In addition to that, different tax groups had a different progression. If the married woman in spite of it all thought about working part or full time, the couple immediately discovered that it was not at all worthwhile. The husband was normally, as main provider of the family, subject to the lowest tax group, whereas his wife in her tax group would be subject to the highest progression. Half of her salary from her job would thus end directly in the fiscal treasury. Therefore, the state, in spite of its contradicting statements, directly regulated the private life of its citizens.

Nevertheless, the total "domestication" of housewives, which is how most scholars view developments of the 1950s, was at no times a social reality let alone a socio-political agreement.<sup>42</sup>

The Conservatives, with the introduction of splitting and progressive taxation, for the first time, did not take labour market necessities into consideration but put through a socio-political model in tax politics.

## 2. Taxation of Women in Gainful Employment in Denmark

Since 1880, married women in Denmark had the right to have their own income at their disposal. Yet it was the husband who had to declare income to the fiscal authorities. In the first Danish income tax law of 1903, the joint assessment of married spouses was lawfully fixed. The consequence of this was that the wife's possible income was added to the main provider's – the husband's – income. Because of the progressive scale, woman's income was taxed at an extremely high rate.<sup>43</sup> The head of the family was liable for tax.<sup>44</sup> The wife did not have her own tax code and was officially not a taxpayer.

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42 Compare von Oertzen, *Teilzeitarbeit* (note 5), p. 190.

43 For the Danish tax laws see Anna Birte Ravn, *Gender, Taxation and Welfare State in Denmark 1903-1963*(83), in: Kari Melby et al., *The Nordic Model of Marriage* (note 1), pp. 113-127.

44 *Lov om Indkomst- og Formueskat til Staten af 15. Mai 1903*, §7.

She did not even have to undersign, certifying that the tax declaration her husband made was correct. However, if the head of the family did not fulfil his taxpaying duty, financial administration could not only seize the man's but also his wife's salary. There was an allowance granted for children under the age of 15.

### *2.1 Allowances in family taxation policy*

In 1912, a so-called, "wife-deduction" (*hustruafdrag*)<sup>45</sup> was introduced. If the woman's income was not based on her husband's property or their joint property, but on a gainful employment for an independent employer, the husband could claim this deduction. It should compensate the extra costs that a man would have to pay when his wife was working and not being able to look after the household completely.<sup>46</sup> This tax relief was granted to the husband and was at its utmost half of his own allowance. In the tax law of 1922, the wife deduction was again granted to the "family provider", but it was now graded and only granted up to a certain income. The lower the income, the higher the allowance. However, facing price rises and general development of salaries, the wife-deduction began to lose more and more significance because it could hardly ever be claimed.

In the law of tax assessment of 1947/48 the wife-deduction was therefore separated from the husband's salary and set to half of the wife's salary but at maximum value of 2000 Crowns. This sum represented the legislature's supposed minimum wage for a domestic help. This rule was kept until the law of tax assessment of 1958/59. The significant group of self-employed, with a smaller income, first benefited from the tax regulation in 1959/60.<sup>47</sup>

Apart from the so-called wife-deduction, there were many other tax allowances. First, of course, the personal allowance, which depended on income, place of residence and provision of duties, tax deductions for children and, since 1950, child benefits. The government started to differentiate between providers and non-providers when it introduced the new tax law in 1922.<sup>48</sup> The reformed marital laws spoke of mutual provision. There was *one* taxation rate, just as before, but providers were granted a higher allowance (graded according to their income) than non-providers. Providers were, according to the law, all married men and widowers, widows and divorced

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45 Lov om Indkomst- og Formueskat til Staten af 8. Juni 1912.

46 Lov om Indkomst- og Formueskat, §8.

47 Betænkning om ægtefællers beskatning. Afgivet af det af finansministeren den 8. marts nedsatte udvalg. Betænkning nr. 327, 1963, p. 19.

48 Lov om Indkomst- og Formueskat til Staten af 10. April 1922.

people with their own household or with a duty of maintenance. Single parents, who lived with their parents, were not providers in terms of the regulation.<sup>49</sup> In 1956/57 two different taxation rating scales were developed: one for providers of a family and one for non-providers. Hence the allowance for family providers was redundant thereafter.

Child allowances and benefits were offset against tax liability until 1967. Since 1903, there had been tax deductions for children under the age of 15, even for illegitimate children. This rule was a disadvantage for workers with lower incomes, as tax deductions had a greater effect on higher incomes. Since 1950, when the first child benefit law was passed, the benefit was offset against tax liability. Since 1951, under certain circumstances, this benefit could be paid to the mother. Not until the child benefit law of 1967, child benefits were no longer part of tax law but of social law.<sup>50</sup>

## 2.2 *The positions of women's associations*

The Danish women's associations realised very early how significant tax law was in their context. The activities of the Danish Women's Association (*Dansk Kvindesamfund*) concerning tax politics can be separated into four main phases, each with a different emphasis. The first in and directly after the First World War, the second in the 1930s then again directly after the Second World War, and finally at the beginning of the 1960s. The women's association claimed separate taxation of spouses for the first time in 1913. This very central demand from time to time gave way to other seemingly more practical demands. The association had to face the dilemma of trying to balance working women's interests with that of housewives.

In 1915 the Danish Women's Association sent their first statement to the Danish parliament, demanding that spouses should be taxed individually. Their argument was firstly, that it was humiliating that a formerly politically responsible citizen was put on the same level as an immature child after marrying. Secondly, it was unjust that a woman should lose her right to vote in local elections if her husband did not pay his taxes.<sup>51</sup>

When the dreams of a housewife salary were shattered, during the discussion about marital law in the 1920s, the general demand for separate marital

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49 Kirsten Geertsen, *Arbejderkvinder i Danmark. Vilkår og kamp 1924–1939*, Copenhagen 1982, p. 279.

50 Hanne Rimmen Nilsen, *Livets Lighed. Lis Groes og familiepolitikken i 1950'erne*, in: *Kvinden og samfundet, Jubilæumsskrift 1996*.

51 Eva Hemmer Hansen, *Blåstrømper, rødstrømper, uldstrømper. Dansk kvindesamfunds historie i 100 år*, Aarhus 1970, p. 86f.

taxation was raised again. However, the association's activities concentrated first on criticising the definition of "provider".<sup>52</sup> The public law definition of provider was derived from the civil servants law of 1919. According to this, a man was defined as a provider just because of his marital status, regardless of whether there were children to support or not. The provider status was also independent of his wife's income. The married woman however did not attain provider status as a rule. She was only granted the provider status in exceptions, if the man could not earn a salary due to illness while there were children to maintain. Indeed if the man did not have an income at all, he was still regarded as the provider and head of the family and thus the only person liable to pay tax.<sup>53</sup> The women's associations demanded that the provider bonus should only be granted to persons that had children to provide for. They believed it to be an underestimation of wives' economic capability if they were as a rule defined to be in need of provision.

When a new tax commission in 1936 was to work out reform proposals and the representatives of the women's associations were not granted access to the committee, some associations<sup>54</sup> produced independent statements on the issue.<sup>55</sup> They restricted themselves to developing pragmatic procedures. Tax declaration should thus feature both spouses' names and should only be valid if signed by both. Married women should be granted their own tax code if necessary and hence be able to pay their tax independently. Unmarried providers should also be granted the provider's allowances. Finally the judicial consequences of not paying tax should only have an impact on the person who did not pay it.<sup>56</sup>

### *2.3 Excursus: The effects on the right to vote in local elections*

The husband's reliability in taxpaying could indeed have a negative effect on the woman's position in society and especially on her political rights. Until 1953 suffrage and eligibility was tied to the condition that one was registered as a taxpayer in one's home community and that one had paid the taxes of the last two years including the current year. As only the "head of the family" was responsible for paying tax, his wife lost her right to vote if he

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52 See Ravn, *Gender* (note 43), p. 117.

53 Inger Margrete Pedersen, *Forsørgerbegrebet. Studier i familiens retlige problemer*. Betænkning nr. 440, Copenhagen 1966, p. 112.

54 Dansk Kvindesamfund, Danske Kvinders Nationalråd, "Open Door" and Københavns Husmoderforening.

55 Cf. Hemmer Hansen, *Blåstrømper* (note 51), p. 87; Ravn, *Gender* (note 43), p. 117.

56 Pedersen, *Forsørgerbegrebet* (note 53), p. 15.

did not pay. This was a problem especially in situations of separation.<sup>57</sup> Yet it was first in 1957 that these regulations were relaxed and exceptions were made in case of death, divorce or separation. In lawful marriages, however, they were still valid concerning suffrage and eligibility. The minister of the Interior showed no understanding whatsoever: "As far as I remember, it is said in the wedding ceremony, that the couple should follow one another in good times and in bad times, and this alone is recognised here. I am about to say that if a woman has not enough influence on her husband to make him pay his taxes if she wants to be a candidate in local election, then her influence in the district council will not be very strong either."<sup>58</sup>

#### 2.4 *The discussion after 1945*

A new impetus was brought to the discussion by Erik Ib Schmidt and Inga Dahlsgaard with the essay "Tax and marriage",<sup>59</sup> published by *Dansk Kvindesamfund* in autumn 1945. The authors showed that the transition to modern forms of production with an extended division and specialisation of labour had brought significant changes to the economic unit "family". Still the woman's housework conditions improved, according to the article, in turn improving the economic situation of the family and thus raising family income. The housewife's work was taxed at a very low rate, the authors stated. First of all there were less indirect consumption taxes, as food and clothes could be produced in the house, whereas working mothers had to buy such items and secondly, the income of housework was not subject to taxation at all.<sup>60</sup> Apart from the taxation privileges of housework, the essay criticised the fact that gainful employment of married women was taxed at a much higher rate than any other employee's income. In tax law the wife was seen as an appendix to her husband, but the sanctions would have the same impact on her as on him. The authors' proposal was to abolish joint taxation as the most sound and best solution. They also implied that provider, wife, and child deductions should be cut in favour of child benefits and other social security payments.

The publication of this essay had a thunderbolt's effect on the feminist debate. It had become apparent that housewives could, as a "work force reserve", assist with the post-war reconstruction, for which a larger work force

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57 *Ibid.*, p. 15.

58 *Folketingstidende* 1957/58, p. 473.

59 Inga Dahlsgaard/Erik Ib Schmidt, *Skat og Ægteskab. Aktuelle skatteproblemer*. Ed. by Dansk Kvindesamfund, Copenhagen 1945.

60 Dahlsgaard/Schmidt, *Skat* (note 59), p. 19.



was badly needed. Therefore the Danish Women's Association took the offensive and demanded the separate taxation of spouses: "Because it is in our opinion of great importance for economy that the female work force is also used, we venture to draw your attention to our earlier petitions all based on the idea that husband and wife – in one form or the other – are taxed separately, or that a considerably higher allowance on their joint income is granted instead."<sup>61</sup>

The correlation of joint assessment, progressive taxation and the accordingly high rate of taxation for married working women, the low wages for women and the shortages in the work force were topics for lively discussions in the post-war years. Newspapers ran such headings as "Can one save money through companionate marriage?", or "Marriage divorced for tax reasons", and thus intensified the conflict. Even the minister of Finance tried to find incentives for the employment of women.<sup>62</sup> After consultations with the financial department about a new tax law in 1948, *Dansk Kvindesamfund* (DK) and its umbrella organisation *Danske Kvinders Nationalråd* (DKN) emphasised their demands for gender equality in taxation in principle, and especially for the abolition of joint assessment and taxation.<sup>63</sup> However, as the situation on the labour market eased again, public interest in this issue also seemed to calm down.

The results of the official commission on taxation, which had already been established in 1936, though first publishing its results in 1948 and 1950, were distinctly lacking in innovation.<sup>64</sup> Most of the commission's members, who were all men, had neither understanding nor concern for women's demands and issues whatsoever. The commission's majority explicitly justified the joint assessment and even tried to abolish the wife deduction.<sup>65</sup> The report's tone not only displayed a lack of concern, but also reflected a considerable arrogance, especially as the "childless wife" was used as the most deterrent example. The argumentation constructed an artificial conflict of interests between the married woman and the single mother.

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61 Kvindehistorisk Arkiv, Aarhus, material tax system. Letter of Dansk Kvindesamfund to tax commission from 2 September 1946.

62 Kvindehistorisk Arkiv, Aarhus, a collection of articles about taxation from the years 1946-48.

63 Kvindehistorisk Arkiv, Aarhus, DKN and DKS to Generaldirektør Knud Kost, August 1948.

64 Betænkningen om Beskatningen af Indkomst og Formue m.v. Afgivet af Skatte-  
lovkommissionen. I. del, Copenhagen 1948; Skattelovkommissionens Betænkning.  
II. del, Copenhagen 1950.

65 Betænkning 1948 pp. 66-71.

It was asked again and again why the single mother was not granted the wife-deduction, and, in response to the rhetorical question, it was decided to cut the deduction altogether. The women's associations, DKN and DK protested severely against the abolition of the allowance and drew attention to the effects of such a "marriage penalty". They feared a drop of women's employment with negative consequences for reconstruction, an increase in divorces for tax reasons and a diminution in marriages. At the same time, they agreed to the alteration of the "provider" definition, which should in future be extended to unmarried people supporting their children, elderly or sick relatives, and thus let them also benefit from family allowances.<sup>66</sup>

In the second part of the 1950 report the official commission defended the continuation of joint assessment with the argument of "technical necessity in tax", though it did now develop proposals to augment the wife deduction which clearly contrasted with former statements. The female representatives' criticism was clear: The investigation of marital taxation was superficial, and carried through without statistic material or thorough enquiry.<sup>67</sup> Probably as a response, the Danish Women's Association itself now started an investigation on the taxation of married women.<sup>68</sup> The result was remarkable. Not only did it not at all refer to the essay published eight years earlier, there was also a drastic change of direction and argumentation. The demand for separate or individual taxation did not appear at all, instead the tax policy committee demanded different taxation scales for families with two working providers and families with a working man and his housewife. The abolition of the "provider"<sup>69</sup> definition was no longer a point of discussion. The definition was sharpened as it no longer referred to the support of children but should only apply to jointly assessed, married persons. "It would be sensible to apply the 'provider' definition only to married, jointly assessed couples and that only to them a family allowance as granted because families have a much higher subsistence level than unmarried people."<sup>70</sup> This surprising change of direction was definitely in conflict with the

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66 Kvindehistorisk Arkiv. See Letters of DKN and DK to the government and parliament from 30 November 1948; *Kvinden og samfundet*, 1948, p. 176, "Til regering og rigsdag".

67 Kirsten Gloerfelt-Tarp (Radikale Venstre), *Folketingstidende*, 13. November 1951, pp. 953-956.

68 Dansk Kvindesamfund (ed.), *Gifte kvinders beskatning. En undersøgelse over virkninger af de gældende love samt retningslinier for ændringer*, Copenhagen 1954.

69 See Lissie Masgård, *Hvad er en "forsørger"?*, in: *Kvinden og samfundet* (1951), p. 36f.

70 *Kvinden og samfundet* (1954), p. 118.

original positions of the women's association, however it reflected the spirit of the times with its strong emphasis on legal marriage. One therefore can only agree with the historian Anna Birte Ravn, who holds the years 1945 to 1953 to have been the most turbulent period in terms of political discussions and statements of the Danish Women's Association on tax policy.<sup>71</sup>

Marital taxation kept the *Folketing* busy for regular periods of time. This was due firstly to the evident necessity of a tax reform but with none of the parties daring to launch sweeping reforms. The result was instead the passing of a series of small, partial reforms. In the annual budget and in finance laws small adjustments were made. In May 1954, the minister of Finance, Viggo Kampmann (S) came up with an eagerly awaited tax reform proposal.<sup>72</sup> According to this, spouses should be taxed separately up to a certain income, thus enabling the so-called assistant wives to be assessed individually, too. From an income of 22,000-30,000 Danish crowns onwards, married couples were to be taxed progressively and jointly and thus to face augmentation of their tax burden. The missing wife and provider allowances were to be compensated by a general allowance for the subsistence level of every adult. For the first time, a proposal showed concern for the explicit support of the family instead of supporting marriage, as a representative stated: "The result is that before and after marriage, the tax situation will be exactly the same for the couple if they do not have any children. If children are born, the circumstances will change and then the so-called family policy, that is, the special concern for families will be taken into account. Therefore families with children will be favoured and special concern will be shown towards those families where the mother is working, too."<sup>73</sup>

New regulations for child benefits should also be settled with this reform. The proposal to pay these benefits to the mother and augment the mother's gainful employment was not met with enthusiasm everywhere. Conservatives ridiculed the proposal by asking if the state was to pay a nanny for each and every family in the country.<sup>74</sup> The abolition of wife deduction was also quite controversial. From the women's side, the continued use of the word "head of family" was criticised. However in the following year, the proposal was not passed by the *Folketing*.

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71 Ravn, *Gender* (note 43).

72 See *Kvinden og samfundet* (1954), p. 118.

73 Hans Knudsen (Socialdemokratiet), *Folketingstidende*, 20 May 1954, p. 5471.

74 Poul Møller (Konservative Folkeparti), *Folketingstidende*, 20. May 1954, p. 5519.

### 2.5 The tax reform of 1958

There was a limited reform in 1956/57 when, instead of the one rating scale with the provider allowances, two taxation scales were introduced: one for providers and one for non-providers.<sup>75</sup> The following year, most of the injustices concerning the “provider” definition had been resolved. Divorced or widowed men without current providing duties were no longer subject to the taxation privileges (as a matter of fact, this applied to 165,000 men) and single parents were to gain easier access to the lower taxation. The right-wing liberal party *Venstre* tried to treat housework as an equivalent to employment and called for the expenses for housemaids to be made tax-deductible. According to *Venstre*, the number of kindergarten places needed could thus be limited to a “reasonable” amount and one could also provide support for the elderly and would not have to subsidise the “many and too expensive” elderly homes. Families in need of help would sort out their problems more independently<sup>76</sup> and government could therefore reduce claims for communal domestic help or other public support. The Social Democrats, of course, objected to these ideas.

As the different taxation scales led to a higher taxation of spouses who were both working, the women’s association discussed separate taxation again. The valid regulations led in most cases to a higher tax burden if two working people got married. Regardless of the fact that both had been taxed high as non-providers before the marriage, the marriage could have a negative effect on family economics in spite of the husband’s provider benefit. If a man on the other hand married a non-working woman, the tax burden grew smaller because in this case the provider bonus came fully into effect. Little had changed for couples with a relatively low income and a working wife (about 70 percent of the married couples in Denmark). For the remaining 30 percent of couples, those with a higher income, the tax burden increased noticeably. If two teachers decided to marry, then their taxation was 15 percent higher than before the wedding. If the woman only worked part-time, the burden nevertheless increased by 15 percent.<sup>77</sup> The income of an unmarried woman was generally taxed lower compared to a married woman’s income whose husband was working. The head of the household was still accountable to the tax authorities. Yet Jytte Christensen, the tax specialist of the Danish Women’s Association did not revise her agreement to joint assess-

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75 Discussions in Folketing, 7 December 1956.

76 Foged (Venstre), Folketingstidende, 10 December 1957, pp. 1459-1460.

77 Examples in: *Betænkning om Ægtefællers Beskatning*, Afgivet af det af finansministeren den 8. marts 1961 nedsatte udvalg, Copenhagen, 327/1963, pp. 57ff.

ment.<sup>78</sup> Christensen did indeed register the German Federal High Court's decision against joint marital taxation. But instead of using the Supreme Court's verdict, which also corresponded to UN philosophy, for her own campaign, she strictly denied a similarity of the German and Danish situation. Denmark, unlike the Federal Republic of Germany, did not have UN human rights embedded in its constitution and therefore the German decision was not relevant, she stated. A little later the tax expert repeatedly claimed that the actual "incapacitation" was the fact that married women could not file and be responsible for their own tax declaration, nor sign their husbands'. Joint or separate assessments were only techniques of taxation and neither implied a negative nor a positive judgement, she declared. DK in 1960 only partly demanded the abolition of joint taxation because, according to Christensen, most of the married women in independent employment enjoyed tax reduction by means of the wife-deduction.<sup>79</sup>

The conservative and right wing parties' plans of 1960, to introduce the splitting system in order to "bring a clear family policy into Danish tax law" were not successful.<sup>80</sup> The DK representatives rejected the proposal at once because they held the splitting system to be not neutral, but supportive of housework and housewife marriage.

14 years had passed since the end of the war and, in spite of many proposals, Denmark had not seen a significant change let alone concrete steps towards the equality of married women and men in tax law. As in previous years, the tax coding was only given to the man, the head of family. The tax declaration was valid even if his wife had not signed it. However, if the family owed tax, government could seize both spouses' salaries. Even the women's associations were unsure about the best strategy to continue the discussion. Another ministry of Finance committee was commissioned to investigate the social, legal and economic effects of the current tax law. That committee proposed three different models for future taxation in 1963.<sup>81</sup> There was broad agreement on the necessity of changes, not at least because a threatened shortage of work force demanded other approaches to the problem. The committee assumed that the high taxation of the female spouse's income noticeably reduced the likeliness of her seeking gainful employment. This fact now had a counter-productive effect regarding the shortage of

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78 *Kvinden og samfundet* (1958), pp. 137 ff.

79 *Kvinden og samfundet* (1960), pp. 34-35.

80 *Folketingstidende*, Poul Møller (Konservative Folkeparti), 9 February 1960, pp. 2785ff.

81 *Betænkning om Ægtefællers Beskatning*, Afgivet af det af finansministeren den 8. marts 1961 nedsatte udvalg, nr. 327, Copenhagen 1963.

teachers, doctors, dentists, technicians and hospital staff.<sup>82</sup> If a teacher's wife started to work in a similar position, the joint income was taxed at a rate that was 41.5 percent higher than if she remained a housewife. A part-time job meant a higher rate of 38.2 percent. For a factory worker, the wife's independent employment meant a higher taxation of 21.8 percent.<sup>83</sup> Therefore, the official committee recommended reforms. It took on board the women's associations' arguments, that the current tax law kept couples from getting married or even implied a divorce for financial reasons. This had been a strong objection. German women's organisations and Social Democrats used similar arguments in the discussion in the Federal Republic of Germany, during the 1950s, and finally succeeded. The alternatives were to impose individual taxation in general or at least for the majority of marriages, or to reform the wife deduction and raise it. The report concluded that if a simple and thorough reform was desired and if one wished to leave the decision between independent employment and housework entirely to the married couple, one could only support the slow change towards total separate or individual taxation.<sup>84</sup> However, in the reform bill the government presented in January 1965, there was little left of the committee's ideas.<sup>85</sup> It was the first bill concerning tax that included significant changes,<sup>86</sup> yet even in this paper the marital status had a direct effect on the tax burden. Inger Margrete Pedersen concluded in 1966 with an air of resignation that "it seems to be characteristic for our century that individualism is assumed to be something granted between partners and not something that has an effect on and significance for public demands."<sup>87</sup>

Another regulation in tax law had clearly normative motives: the so-called newly-weds regulation.<sup>88</sup> If the newly married woman chose to stop working in the first three months of her marriage, the family could claim considerable tax reduction, regardless of the probable pregnancy of the woman. If circumstances changed for a single mother because of childbirth, there were no tax reductions at all. It is remarkable that these tax reductions

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82 *Betænkning* 1963, p. 62.

83 *Ibid.*, p. 59.

84 *Ibid.*, p. 73. See discussions in *Folketing*, 1 October 1963.

85 Pedersen, *Forsørgerbegrebet* (note 53), p. 26f. See also 1st discussion of finanslov, *Folketing*, 22 October 1965.

86 See *Ibid.*, p. 56.

87 Thøger Nielsen, *Indkomstbeskatning I*, 1965, p.331, cit. after Pedersen, *Forsørgerbegrebet* (note 53), p. 31.

88 Pedersen, *Forsørgerbegrebet* (note 53), p. 123.

with their transparent educational intention were not criticised or even mentioned in any of the contemporary investigations and statements.

### *2.6 The introduction of individual taxation*

Despite the fact that tax reform was an important subject for most parties in the 1964 election campaign, it took the government until 1970 before it finally introduced individual taxation. Conservatives, Radicals and Social Democrats had all stated that joint taxation should be abolished in their opinion, and all the other parties also desired tax reform.<sup>89</sup> On 31 March 1967 the so-called tax at source law<sup>90</sup> was passed with the votes of the Social Democrats, the Liberals and the Socialists. The most important changes were the abolition of joint taxation and the standardisation of allowances and deductions. The wife's income was taxed separately if she was self-employed or independently employed or was granted social welfare, sickness benefit or pension. The provider definition was abolished. The family status should be taken into account via allowances per person. The man could claim his as well as his wife's allowance on his tax liability. In 1970, when the Conservatives were in power, the law came into force. From then on, tax deductions purely for marital status became a relic of the past.

## 3. West Germany and Denmark in Comparison

The changes within the tax law have to be interpreted in the light of the different socio-political circumstances that implicitly or explicitly were taken into account. Such circumstances were the situation on the labour market, juridical fixation and social acceptance of gender equality and finally the significance that was granted to marriage and especially to housewife marriage.

In both countries, tax law played an important role in the parliamentary discussions about women's role. There were comparable origins – the so-called household taxation. In the Weimar Republic, quite a large group of married women were granted individual taxation while the main principle of joint taxation was kept. This exemption survived different modifications and

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89 Randi Markussen, *Socialdemokratiets kvindeopfattelse og -politik fra 1960-1973*, in: *Den jyske historiker*, special issue: *Socialdemokratiet, velfærdsstaten og kvinderne*, vol. 18 (1980), pp. 15-168, here pp. 59-70.

90 *Lov om ændring af lov om opkrævning af indkomst- og formueskat for personer m.v. (Kildeskat)*, in: *Folketingsårbogen 1967-68*, pp.176-186; *Lov om ikrafttræden af lov om opkrævning af indkomst- og formueskat for personer m.v. (Kildeskat)*, in: *Folketingsårbogen 1967-68*, pp. 186 ff.

stayed valid until 1958 – the year of the general tax law reform. The household taxation without exemption had been impossible to put through in the face of socio-political protests, apart from the period 1934 to 1941. In Denmark, the so-called wife deduction was introduced in 1912. It was granted to men whose wives were in independent gainful employment, to cover the husband's expenses for home help in the household. And yet only the husband was liable to pay tax.

In both countries, married women were seen as a work force reserve and as a means to regulate the labour market. It was clear to contemporary politicians that a high taxation of married women's gainful employment would serve as a motivation against seeking independent employment. According to the labour market situation, tax policy could then be used as a regulation. In Denmark, the women's associations tried for the first time in an immediately after the First World War to achieve separate assessment with this argument, though without success. The ministry of Finance's tax committee picked up this argument not before the beginning of the 1960s, when a lack of work force was noticeable in certain professions. But even this knowledge still had no political consequences. General individual taxation finally became reality with the great tax reform of 1967 and came into force in 1970. In Germany meanwhile, the labour market situation very often brought direct changes to tax policy, at least regarding the reforms of 1934, 1941, 1951, 1958 and finally also for the tax compromise in 1965.

Especially in the case of Denmark, the ambivalences between marital and family law on the one hand and tax law on the other are very apparent. Whereas marital law since the 1920s declared the mutual obligation to provide, tax law continued, until the late 1960s, to speak of one provider respectively, in marriages, of a male provider. In the middle of the 1950s this system was broadened within a specific provider scale. The Danish tax law was thus a direct contradiction to the attempts at establishing equality in the 1920s. Flexibility comparable to that in the Federal Republic of Germany, or even in the German Democratic Republic (where general individual taxation had already been introduced in the 1950s), had not developed. This was not least due to the fact that Danish women's organisations did not argue either vigorously enough or as one voice against household taxation until the 1960s.

In Federal German family law, or rather in the regulations of the Civil Code (*Bürgerliches Gesetzbuch*) from 1900 concerning the family, no intention of gender equality was visible at all. Nevertheless, the individual taxation of the working, independently employed married woman was incorporated into tax law in the 1920s. At the beginning of the 1950s, those



exemption regulations were extended to include other groups of working female spouses. Although the German government fixed the woman's responsibility for the household in the so-called equality law of 1957, it still had to make individual taxation the basis for tax law, especially after the High Court's verdict. Yet it is still remarkable that from the introduction of the splitting model onwards, and again with the creation of different taxation rates for married and unmarried people. German tax law still subsidises the housewife marriage. Thus, not *de jure*, but *de facto* household taxation won through against individual taxation.

Ideas about how the state should intervene or act in order to support marriages or a certain type of family life – that marriage and family were to be supported was out of question both in Denmark and in Germany – differed a lot. Opponents to joint taxation or household assessment stated in both countries that such taxation would dissuade couples from getting married, or even support divorces as the joint taxation put working spouses at a disadvantage against non-married couples. Defenders of household taxation generally wanted to see and treat marriage as a union, as a closed institution, so that in Germany the male head of the family, and in Denmark the male provider, was solely liable to pay tax. Neither the wife's deduction nor the exemption rules for working wives in Germany corresponded with the goals of opponents to household taxation.

Tax policy was both a delicate and vividly discussed issue in 1950's Germany. It was seen in connection with the shortly before passed constitutional article of gender equality and the article to protect marriage and family. That the ultimate reform and especially the splitting model finally subsidised housewife marriage more than anything before was not only surprising to the contemporary spectators. As a matter of fact, the splitting model put marriage itself in a better position in tax terms, though the married woman was personally at a much worse position, which remains remarkable even from today's point of view.

In Denmark the judicial questions of gender equality were not so relevant in the 1950s. Social questions were much more important. This might explain why the subject was not seriously discussed until the 1960s, although there had been attempts to reform tax law in the 1930s. That it was then picked up again was also due to shortages in the work force in certain fields of employment. It is remarkable how much the women's organisations were engaged in the tax law discussion and how resolutely they demanded a general tax reform in the 1950s. Much clearer than ever before and clearer than the second feminist movement in the 1970s, they realised the gender component in tax law.