RICE UNIVERSITY'S BAKER INSTITUTE FOR PUBLIC POLICY
REPORT 03.26.19

# The Marriage Penalty after the TCJA: Effects on High- and Low-Income Households and the Elderly

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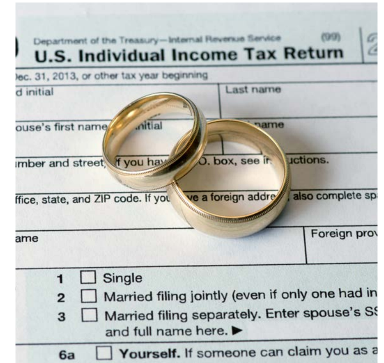


Although couples rarely think about tax returns at their wedding, the tax system does change a couple's income tax liability from that day forward, for richer or for poorer. Furthermore, some marriage-related tax effects last after death doth a couple part. This issue report first summarizes the nature and evolution of the marriage penalty in the U.S. tax system. It then reviews the magnitude of the penalty and its influence on work and marital decisions. Finally, it discusses how the Tax Cuts and Jobs Act of 2017 (TCJA, Pub. L. 115-97) changes the marriage penalty for different income and age groups.

## WHAT IS THE MARRIAGE PENALTY?

The marriage penalty refers to the increased joint income tax liability two taxpayers incur when they marry.[1] In certain cases, marriage could reduce joint income tax liability, which is often called a marriage bonus or marriage benefit. Besides an increase in taxes owed, the marriage penalty can also take the form of reduced tax credits or lower tax preferences.[2]

The cause of the marriage penalty is rooted in three objectives of the U.S. tax system that are intrinsically conflicting.[3] First, the system is designed to ensure that households with the same income pay the same amount of income taxes, regardless of who earns the income. A couple that earns $200,000 and $0 should have the same tax liability as a couple that earns $100,000 and $100,000. Because families can pool resources together in ways individuals cannot, the tax system views the family as a tax unit, instead of the individuals within the family. Secondly, the system maintains a progressive rate structure, meaning that taxpayers with higher incomes pay higher taxes at higher rates. Finally, the tax system is based on the belief that a couple's marital status should not influence their tax liability; the system remains marriage neutral.

Separately, these are all desirable goals. However, the "unattainable ideal" that incorporates all three simply cannot be achieved simultaneously. Prior to the TCJA in 2017, two unmarried people who both earn $100,000 would each pay $18,139 in taxes, or $36,278 total. After marriage, the couple would pay a combined $37,060 in taxes, an increase of $783. This is because joint reporting pushes some of the couple's income into the higher 28% tax rate bracket. For this couple, the tax system treats them jointly as a tax unit and maintains the progressive rate structure (satisfying the tax system's first and second objectives), but they pay more taxes as a result of marriage, a violation of the marriage neutrality principle.

The marriage penalty can be eliminated by relaxing the first or second objectives. Using the individual rather than the family as a filing unit or switching to a flat tax rate structure would solve the conundrum, but these options are often perceived as less desirable politically than leaving an

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**The cause of the marriage penalty is rooted in three objectives of the U.S. tax system that are intrinsically conflicting: household-based taxation, progressive rate structure, and marriage neutrality.**

acceptable marriage penalty in place. Not only would switching to a flat tax system change the current distribution of income tax burdens, it would also be considered unfair because higher income households would not pay a higher portion of their income in taxes. A complete switch to an individual filing system would also change the current distribution of tax liability and likely increase taxes for single-earner families. A less radical proxy is therefore to set the standard deduction and the income bracket at which higher tax rates take effect for married couples at twice the levels for single taxpayers, but the potentially undesirable effect would be to enhance a marriage bonus, creating a "dowry" for some married couples.

In general, the marriage penalty has garnered the most attention in discussions regarding personal income tax treatment of families; however, the marriage bonus actually existed before the marriage penalty became an issue. In 1948, Congress introduced the concept of universal income splitting to calculate joint tax liability between couples. Under this regime, when two taxpayers got married, their tax liability was calculated as double the liability owed on half of their combined income, which generally led to lower joint tax liability, or a marriage bonus, compared with two single individuals.[4] To resolve this issue, Congress created a separate rate schedule in 1969 for unmarried taxpayers, but this made it possible for two individuals' joint tax liability to increase when they got married—thus creating the marriage penalty.

Political debate regarding the marriage penalty was intense in the 1970s through 1980s, but greatly declined after the Tax Reform Act of 1986 (TRA 86), in part because the reform lowered the marginal tax rates to an extent that the marriage penalty and bonus were not as significant.[5] Additionally, studies generally found that the number of households that incur a marriage penalty versus a marriage bonus are similar, and that the size of their respective penalties or bonuses are also not significantly different. This leads to the impression that in aggregate, the marriage penalty is not a major issue from a government revenue perspective, although it does generate uneven distributional results.[6]

The 1990 and 1993 tax acts increased taxes overall, expanded the number of tax brackets, and raised the maximum marginal tax rate to 39.6%. A Congressional Budget Office (CBO) report indicated that these changes imposed larger marriage penalties on both low- and high-income families, as well as increased marriage bonuses for some.[7] Throughout the 1990s, dissatisfaction about the increasing marriage penalty again intensified, and by the early 2000s, there was congressional interest from both political parties in reducing the marriage penalty.[8] The 2001 and 2003 tax cuts therefore reduced the penalty for many middle class taxpayers.[9] A major approach used was to make some tax brackets for married couples filing jointly (MFJ) twice as large as the corresponding brackets for single filers. For example, between 2003 and 2017, the income range of the 15% tax rate bracket for MFJ households was double that of single filers, but not for higher rate brackets. As such, taxpayers with incomes subject to the 25% marginal tax rate or above generally were more likely to experience a marriage penalty.[10]

Although the occurrence of a marriage penalty or bonus depends heavily on the circumstances of the particular taxpayers, three factors have the greatest influence: the couple's income level, number of children, and the division of income between them.[11]

As indicated, from 2003 to 2017, households with income subject to the 25% rate or above were more susceptible to the marriage penalty because of the narrower MFJ brackets; this bracket asymmetry kicked in at approximately $57,000 to $75,000 per individual.[12] For income levels below this range, however, the standard deduction and the income brackets for married couples filing jointly were twice those for single taxpayers; hence, there was limited concern of a marriage penalty for these groups.

The number of children a couple has matters because it could determine the taxpayers' filing status, the associated deduction level, and whether they qualify for various credits. Finally, spouses with roughly the same income levels tend to

pay a marriage penalty, while spouses with unequal incomes tend to receive a marriage bonus. A study by the Joint Committee on Taxation (JCT) states that under the 2001 tax law, married couples whose earnings were split more closely than 70-30 would suffer a marriage penalty.[13] A more recent study on the tax consequences of marriage for cohabiting couples found that in situations where one spouse earns less than 5% of the family income, 77% of these households would have a marriage bonus, while 3% would pay a marriage penalty. As the couples' income distribution becomes more even, where one spouse earns 40-50% of the total income, only 11% of those couples incur a marriage bonus, but 63% would pay a marriage penalty.[14]

A more subtle way the marriage penalty emerges is in the form of tax preferences. There is plenty of evidence in the tax code demonstrating how tax preferences depend on marital status.[15] Although the tax code eliminates preferences as income rises, the income level at which the preferences disappear is generally not twice as high for married couples as it is for unmarried cohabiting couples.

## DOES IT MATTER?

In theory, if the marriage penalty increases the "costs" of getting married, it may lead to lower marriage rates. As such, an important issue is whether the marriage penalty is substantial enough to change people's marital decisions. Research has generally found limited evidence that a tax-induced marriage penalty caused lower marriage rates. [16]

The magnitude of the marriage penalty is certainly an empirical issue that changes over time. Other than tax rates and brackets, the scale of the marriage penalty has been influenced by two conflicting demographic trends. On the one hand, an increase in the share of married couples with two earners increases equality of earnings, particular among couples with higher incomes. This leads to more couples incurring a marriage penalty. On the other hand, given that married couples make up a lower portion of all family structures—a trend influenced by several other social or economic factors—the resulting decrease in the number of MFJ taxpayers has reduced the impact of the marriage penalty.

Although the marriage penalty does not appear to have much of an impact on couples' marital decisions, it does change people's work patterns, especially for the secondary earner in a couple (the lower earning spouse). Specifically, because a joint system taxes the combined income of married couples as one single unit, the secondary earner's marginal tax rate is the same as that of the primary earner. This has the effect of causing the secondary earner to reduce his/her work hours or not work at all.[17]

### International Perspective

The Organisation for Economic Co-operation and Development (OECD) points out that tax unit selection (individual vs. household) is an important factor in determining the extent to which a tax system favors dual-earner couples or single-earner households. As of 2016, most OECD countries tax each married taxpayer separately under an individual system.[18]

As mentioned, in a household-based system with a progressive income tax rate structure, the secondary earner's marginal tax rate will be higher than the marginal tax rate of a single person with the same level of earnings. An individual tax system would have the opposite effect. When taxpayers are taxed on an individual basis regardless of combined family income or marital status, a progressive rate structure implies that the secondary earner will be taxed less heavily than the primary earner (up to the point where their incomes are equal). A dual-earner family therefore can achieve higher after tax income than a one-earner family, ceteris paribus. The OECD study concludes that an individual tax system with progressive income tax schedules encourages a more equal sharing of earnings across different household members as well as labor force participation of secondary earners. The study indicates that in most cases, the secondary earner is typically

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**A Tax Cuts and Jobs Act provision that affects relatively affluent married households is the capped itemized deduction for state and local taxes per return. Two single taxpayers can each claim $10,000 on their returns, but a married household filing a joint return only gets to claim $10,000.**

female, and an individual tax system is more likely to encourage women to pursue careers outside of the home.

### Reform Proposals

Tax rule changes have a major influence on the magnitude of the marriage penalty. Over time, several solutions have been proposed to address the issue.[19] A brief historical review demonstrates that these ideas are not executed in a vacuum. Almost all of these approaches have either been implemented or heavily debated, and are viable at either the federal or state and local levels.

The most popular proposal—which was adopted by the TCJA—is to widen the tax brackets and raise the standard deduction for joint filers. The TRA 86 first implemented this approach, and it has since become a leading policy instrument to alleviate the marriage penalty. The advantage is the ease of implementation; several states currently use this method for state income tax purposes. The major disadvantage is that it could greatly enhance the marriage bonus.
A second approach is to exempt some or all of a household's secondary income from taxes. This is essentially the "two-earner deduction" system used between 1981 and 1986, which allowed joint filers to deduct 10% of the secondary earner's income from the couple's combined adjusted gross income (AGI), up to $3,000. This strategy reduced but did not eliminate the marriage penalty. However, it has the benefit of targeting households who incur a marriage penalty while limiting increases in the number of households that receive marriage bonuses.

Another option is to let couples choose whether to file joint or separate returns, which would allow them to file individual returns when doing so would lower their tax bill. Some states and Washington, D.C., use this approach.[20] The major challenge is its complexity—to determine which filing method would lower their liability, couples have to calculate taxes owed under both systems. In addition, tax rules would need to specify how taxpayers allocate tax preferences regarding dependents or unearned income between the spouses, which further complicates the compliance process. Finally, although it eliminates the marriage penalty, it preserves all marriage bonuses, potentially making this a costly option from a government revenue perspective.

A related alternative would be to require, rather than simply offer the option, that couples file individually. This essentially restores the pre-1948 tax system. One potential issue is that the changes in tax liability from the current distribution would be enormous, in particular resulting in tax increases for one-earner families. Although the marriage penalty disappears under this approach, the potentially drastic change in the current distribution of income taxes paid is the major reason this approach is not favored. Instead, lawmakers prefers incremental marriage penalty reliefs to reduce the impact from changing the status quo.[21]

## EFFECTS OF THE MARRIAGE PENALTY ON HIGH-INCOME HOUSEHOLDS

Prior to the TCJA, the marriage penalty prevailed for mid- to high-income earners because the MFJ income tax brackets were not twice as wide as the equivalent brackets for single taxpayers. The TCJA modified the taxable income brackets such that the MFJ brackets are double those for single taxpayers who earn up to $300,000. For example, two single individuals who each earn $300,000 will apply the 35% tax rate on the last $100,000 of their taxable income. If they are married, their joint taxable income of $600,000 will mean that $200,000 of their combined earnings will be subject to the 35% rate. As such, $200,000 is subject to the highest rate regardless of their filing status.

For the individuals who earn $400,000, their highest marginal rate will be 35% if they are single taxpayers. After they get married, however, $200,000 of their combined taxable income will be subject to the 37% rate, resulting in additional taxes of $4,000.[22] Some observers believe this marriage penalty for high-income households is a provision intentionally left in the rate table to finance the TCJA, because

## TABLE 1 — TAXABLE INCOME BRACKETS AND TAX RATES BEFORE AND AFTER THE TCJA, SINGLE AND MARRIED TAXPAYERS

**Tax Year 2017**

| Single Taxpayers | | Married Filed Jointly | |
|---|---|---|---|
| Tax Rate | Taxable Income | Tax Rate | Taxable Income |
| 10% | $0 to $9,325 | 10% | $0 to $18,650 |
| 15% | $9,326 to $37,950 | 15% | $18,651 to $75,900 |
| 25% | $37,951 to $91,900 | 25% | $75,901 to $153,100 |
| 28% | $91,901 to $191,650 | 28% | $153,101 to $233,350 |
| 33% | $191,651 to $416,700 | 33% | $233,351 to $416,700 |
| 35% | $416,701 to $418,400 | 35% | $416,701 to $470,700 |
| 39.60% | Over $418,400 | 39.60% | Over $470,701 |

**Tax Year 2018**

| Single Taxpayers | | Married Filed Jointly | |
|---|---|---|---|
| Tax Rate | Taxable Income | Tax Rate | Taxable Income |
| 10% | $0 to $9,525 | 10% | $0 to $19,050 |
| 12% | $9,526 to $38,700 | 12% | $19,051 to $77,400 |
| 22% | $38,701 to $82,500 | 22% | $77,401 to $165,000 |
| 24% | $82,501 to $157,500 | 24% | $165,001 to $315,000 |
| 32% | $157,501 to $200,000 | 32% | $315,001 to $400,000 |
| 35% | $200,001 to $500,000 | 35% | $400,001 to $600,000 |
| 37% | Over $500,000 | 37% | Over $600,000 |

**SOURCE** Internal Revenue Bulletin 2018-10, IRS, March 2018; Revenue Procedure 2016-55, IRS, October 2016.
**NOTE** The highlighted rows indicate the lowest brackets where the MFJ income levels were less than twice those for single taxpayers.

the incremental tax liability change is not significant for high-income households.[23] The high-earning couple will also pay more of the Additional Medicare Tax. Two single individuals would each pay $1,800 of this surtax, or $3,600 total. After marriage, because the income threshold is not double that of the single filers, they would pay a combined $4,950—$1,350 more than they would if they were single filers.[24]

Another TCJA provision that affects relatively affluent married households is the capped itemized deduction for state and local taxes (SALT). This previously unlimited deduction is now capped at $10,000 per return; therefore, two single taxpayers can each claim $10,000 on their returns ($20,000 total), but a married household filing a joint return only gets to claim $10,000.[25] According to 2015 IRS data, the nationwide average SALT deduction was $12,471 per return. Statewide averages show that in more than a third of the states (19) plus Washington, D.C., taxpayers claimed over $10,000 in state and local tax deductions, ranging from $10,221 on average in New Hampshire to $22,169 in New York state. This limit undeniably is going to have the largest impact on states with high income or property taxes, since residents in these jurisdictions would be prohibited from claiming the full amount of SAL taxes paid on their federal returns.

## EFFECTS OF THE MARRIAGE PENALTY ON LOW-INCOME HOUSEHOLDS

Marital status can affect the amount of tax credits low-income taxpayers receive, especially households with children. These subsidies are usually structured such that the amount of the tax credit falls when income exceeds a certain threshold, ultimately phasing out to zero. Marriage could result in combined income reaching or surpassing the phase-out range, leading to reduced credits or an increased tax liability.

The most important tax subsidy low- to moderate-income households claim today is the earned income tax credit (EITC). The EITC was not a large program in its early years, although the marriage penalty was embedded in its structure since its inception in 1975. In the 1970s and 1980s, the EITC was a modest tax benefit designed to encourage low-income families with children to start working, and/or to reduce the tax burdens

## TABLE 2 — EITC INCOME LIMITS AND MAXIMUM CREDITS, BY FILING STATUS (2017–2019)

| Year | Filing Status | 0 Children Max EITC | 0 Children Max Income | 1 Child Max EITC | 1 Child Max Income | 2 Children Max EITC | 2 Children Max Income | 3+ Children Max EITC | 3+ Children Max Income |
|---|---|---|---|---|---|---|---|---|---|
| 2019 | Single, HOH, or Widowed | $529 | $15,770 | $3,526 | $41,904 | $5,828 | $46,703 | $6,557 | $50,162 |
| 2019 | MFJ | $529 | $21,370 | $3,526 | $46,884 | $5,828 | $52,493 | $6,557 | $55,952 |
| 2018 | Single, HOH, or Widowed | $519 | $15,270 | $3,461 | $40,320 | $5,716 | $45,802 | $6,431 | $49,194 |
| 2018 | MFJ | $519 | $20,950 | $3,461 | $46,010 | $5,716 | $51,492 | $6,431 | $54,884 |
| 2017 | Single, HOH, or Widowed | $510 | $15,051 | $3,400 | $39,617 | $5,616 | $45,007 | $6,318 | $48,340 |
| 2017 | MFJ | $510 | $20,600 | $3,400 | $45,207 | $5,616 | $50,597 | $6,318 | $53,930 |

**SOURCE** 2017–2019 EITC Income Limits, Maximum Credit Amounts and Tax Law Updates, IRS.

**NOTE** HOH refers to "head of household" filing status. The highlighted rows indicate current year limits and credits.

of low-income working families. During this period, both individuals and joint filers receiving the credit faced the same income phase-out levels. The credit also did not vary by family size. Thus, as family size increased, the credit became less effective in helping a family meet its needs.[26] In the early 1990s, the EITC evolved into a major anti-poverty program focused on encouraging heads of households, especially single mothers, to work. During this period, the EITC changed to vary based on family size, essentially creating different credit formulas based on the number of children.[27]

It was not until 2001 that Congress started to address the marriage penalty in the EITC system, when the structure of the EITC was identified as one of the main reasons low-income workers faced the penalty.[28] In 2001, the income level at which the credit phased out for married couples was increased to be $3,000 higher than the phase-out income for unmarried individuals with the same number of children. This higher income level was temporarily increased to be $5,000 higher for married couples in 2009, extended several times, and made permanent in 2015.[29] As a result, there are eight formulas in effect to calculate EITC: four for unmarried taxpayers and four for married couples, depending on the number of children.

The TCJA maintained the overall design of the EITC and did not make any major structural changes to the credit. It changed the inflation indexing of the income levels,[30] which led observers to believe the growth of the EITC will slow down. For instance, prior to the TCJA, the JCT estimated that the credit would cost $74.4 billion in 2018; after incorporating the effects of the TCJA, its most recent estimate shows the EITC would cost $70.1 billion in 2018.[32]

What makes the EITC stand out from other programs, and does it achieve its intended goals? In general, the most important feature is the EITC's sheer size. At $70 billion per year, it is one of the largest federal tax expenditures for individuals. It also provides sizable benefits for households with children on a refundable basis—which means taxpayers do not need to owe taxes to receive the benefit (Table 2).

The EITC has had a significant impact on reducing poverty among recipients with children, but yielded only limited impact on childless families. In terms of incentives to work, studies show that the EITC does encourage single mothers to enter the workforce, but the credit generally has little to no impact on the hours they work. Research is also less conclusive about the impact of the EITC on married secondary earners' decisions to start working. In other words, among married women, especially those with children, the EITC has had a negligible effect on labor force participation.[33]

The standard deduction is another provision that has a large impact on low- to moderate-income taxpayers, should their filing status change due to marriage. The TCJA greatly increased the standard deduction in 2018: $12,000 for singles, $18,000 for heads of households, and $24,000 for MFJ. However, the marriage penalty prevails when children come into the picture: prior to marriage, two heads of households would receive an $18,000 standard deduction, or $36,000 combined. After marriage, their combined standard deduction will be $24,000, a loss of $12,000. Even if only one side has children, the combined standard deduction will change from $30,000 before marriage (head of household and single) to $24,000 after marriage. The effect caused by this reduced standard deduction could occur in conjunction with the reduced EITC subsidy, should the couple's joint income push them into or over the phase-out income level. While the change in the standard deduction amount associated with filing status applies to households across all income levels, low- to moderate-income households are more likely to feel the impact than high-income households because they are unlikely to use itemized deductions to mitigate the effects, and the standard deduction amounts constitute a higher portion of their taxable income.

## EFFECTS OF THE MARRIAGE PENALTY ON THE ELDERLY

For seniors and retirees, the effect of the marriage penalty may be more prominent because wages generally make up a lower share of their overall income, given that many rely on fixed income.

First, part of Social Security income may be taxable depending on the taxpayers' marital status. Older couples who receive Social Security benefits must pay taxes on their benefits if their "base amount" income—essentially, income from other sources plus half of their Social Security benefits—is over $32,000.[34] In contrast, each partner in an unmarried couple pays taxes on Social Security benefits only if his or her base amount exceeds $25,000 (or $50,000 combined).[35]

Second, different qualification rules apply for spouses, divorced spouses, and surviving spouses when it comes to collecting Social Security benefits. Spouses of a retired worker may receive up to 50% of the retired worker's basic benefits (referred to as primary insurance amount, or PIA).[36] A widow/widower of a retired worker (i.e., surviving spouse) may receive up to 100% of the retired worker's basic benefits. Divorced spouses are eligible for spousal benefits at 62, if the marriage lasted more than 10 years and the claimant is unmarried at the time of claiming benefits. Surviving spouse benefits are available to a divorced surviving spouse beginning at 60 if the divorced surviving spouse is not remarried before 60.[37]

These basic rules generate several interesting ramifications. If a person has more than one former spouse, this person is entitled to spousal benefits based on the earning records of the highest earning spouse.[38] For example, if a woman is eligible to collect Social Security benefits on her ex-spouse's record, she will no longer be eligible for those benefits if she remarries. Then, if her second marriage ends (because of divorce or her spouse passes away) and she was married to each spouse for at least 10 years, she can choose between the higher of the two spouses' benefits.

**For low-income households, marriage could result in combined income reaching or surpassing the phase-out range of tax credits, leading to reduced credits or an increased tax liability. The standard deduction could also have large impact on these taxpayers, should their filing status change due to marriage.**

**The design of the Social Security system includes an imbalanced benefit structure between one- and two-earner families, which can result in inequities between households with similar total earning profiles but different benefits.**

If the woman's first spouse is dead, however, she can also claim survivor benefits at 60. Remarrying before 60 will terminate her eligibility to collect on her late spouse's record. Some financial planners therefore point out that if she waits until 60 to remarry, she can still collect those survivor benefits from her deceased husband.[39]

Finally, and more prominently, the design of the Social Security system includes an imbalanced benefit structure between one- and two-earner families, which can result in inequities between households with similar total earning profiles but different benefits.

When the Social Security benefit system was established, most U.S. households consisted of one earner and a home-making spouse, who remained out of the paid workforce. As such, the spousal and surviving spouse benefits for the non-working spouse were structured to be relatively generous to ensure that they were cared for when their working spouses retired or passed away.

Since 1980, women consistently have been enrolled in college more than men,[40] and women also enter the workforce in greater numbers. Consequently, more women qualify for Social Security benefits based on their own work records instead of spousal benefits based on their retired spouses' basic benefits. Among 25.4 million elderly women who received Social Security benefits in December 2017, 13.3 million women (52%) received retired worker benefits on their own records, and 6.7 million (27%) are dually entitled to a retired worker benefit and a spousal or survivor benefit. About 2.1 million women (8%) collected Social Security solely as the spouse of a retired worker, and 3.2 million women (13%) qualified solely as the survivor of a deceased worker.[41]

The marriage penalty has the biggest influence on the 27% of dual-earner households. Assuming a woman is the lower earning spouse in the two-earner household but still has her own earning records, she will qualify for two benefits, but she can only receive the higher of the two benefits instead of both full benefits. As such, a two-earner household may receive lower total Social Security benefits than a single-earner household with identical total Social Security-covered earnings, despite possibly paying more into the Social Security system. Stated differently, the current system provides proportionately more benefits relative to payroll-tax contributions to one-earner couples. The disparity in benefits between one- and two-earner couples is likely to increase after the death of one spouse.[42] As women's share of household income increases over time, these cases will become more relevant.

## CONCLUSION

This year marks the 50th anniversary of the creation of the marriage penalty in the U.S. tax system. As the tax code changed over time, the magnitude of the marriage penalty has also varied. The changes enacted under the TCJA have helped to limit its impact. However, because of the "unattainable ideal" sought by the tax system, and the reality that giving up the current progressive tax schedule or using the individual versus the family as a tax unit would be politically undesirable, the marriage penalty is here to stay.

Overall, the TCJA did not make many significant structural changes to the tax code that are dependent on marital status. The one provision with major revenue implications is the $10,000 limit per return on state and local tax deductions, which tends to increase married couples' tax liability, compared to unmarried individuals. However, this provision was not created to increase the marriage penalty. What the tax act has intentionally done to change the marriage tax landscape is lower the marginal tax rates and double the income brackets for marginal tax rates above 25% (except for the top earners), which reduces the marriage penalty.

Other provisions—such as the new EITC income thresholds, the standard deduction amounts corresponding to the change of filing status, the Social Security benefit tax, and Social Security inequality for dual-earner families—have existed in the tax code

long before the TCJA. However, this does not necessarily mean there will be no further discussion about the marriage penalty, because social and demographic changes may render it an increasingly important issue in the near future.

Policymakers are likely to go back in history to look for validated reform ideas, just like what the TCJA has done. Several provisions, such as the difference in the Social Security base amount between couples and individuals, EITC income thresholds, and standard deduction amounts, are easy to adjust if lawmakers desire to do so. Nevertheless, certain policies that reduce the marriage penalty may end up enhancing the marriage bonus, tilting the pendulum the other way. Other provisions, such as the equalization of Social Security benefits for two- versus one-earner families and creating incentives for low-income married secondary earners with children to enter the workforce, require more fundamental changes to the current system. However, they are worthy goals that reflect the long-term demographic trends of the U.S. economy.

## ENDNOTES

1. After the U.S. Supreme Court rulings of United States v. Windsor in 2013 (570 US.__; 133 S. Ct. 2675, No. 12-307) and *Obergefell v. Hodges* in 2015 (576 US.__ No. 14-556), same-sex marriages were recognized by federal and state governments for tax purposes. See Margot Crandall-Hollick, Carol A. Pettit, and Molly F. Sherlock, *The Federal Tax Treatment of Married Same-Sex Couples*, R43157 (Washington, D.C.: Congressional Research Service, July 30, 2015), http://bit.ly/2EVciUM.

2. Outside the federal income tax system, the marriage penalty exists in rules for benefit or transfer programs (e.g., food stamps or Medicaid) that limit married couples' benefits to amounts lower than what they would receive as unmarried single individuals. This study focuses on the marriage penalty as it relates to the federal income tax code, but the way marriage penalty functions in income-based programs is similar to that in the tax system.

3. Congressional Budget Office, *For Better or For Worse: Marriage and the Federal Income Tax* (Washington, D.C.: CBO, June 1997).

4. For example, if a taxpayer with taxable income of $80,000 and a taxpayer with taxable income of $20,000 get married, the tax liability would be calculated based on a tax liability of $50,000 (half their combined income), then multiplied by 2. Under a progressive tax structure, income splitting usually leads to a marriage bonus.

5. Harvey Rosen, "The Marriage Tax is Down but Not Out," *National Tax Journal* 40, no. 4 (December 1987): 567-576.

6. See (1) Joint Committee on Taxation, *Overview of Present Law and Economic Analysis Relating to the Marriage Tax Penalty, The Child Tax Credit, and The Alternative Minimum Tax*, JCX-8-01, (Washington, D.C.: JCT, March 7, 2001), http://bit.ly/2u5QqAZ; and (2) Emily Lin and Patricia Tong, "Marriage and Taxes: What Can We Learn from Tax Returns Filed by Cohabiting Couples?" *National Tax Journal* 65, no. 4 (December 2012): 807-826.

7. CBO, *For Better or For Worse*.

8. Margot Crandall-Hollick and Joseph Hughes, *The EITC: An Economic Analysis*, R44057 (Washington, D.C.: Congressional Research Service, August 13, 2018), http://bit.ly/2XNT1NH.

9. Margot Crandall-Hollick, *An Overview of the Tax Provisions in the American Taxpayer Relief Act of 2012*, R42894 (Washington, D.C.: Congressional Research Service, February 4, 2013), http://bit.ly/2Hq63eB.

10. Tax Foundation, "U.S. Federal Individual Income Tax Rates History, 1862-2013," accessed February 22, 2019, http://bit.ly/2F50ErM.

11. JCT, *Overview of Present Law and Economic Analysis Relating to the Marriage Tax Penalty, The Child Tax Credit, and The Alternative Minimum Tax*.

12. This range came from inflation-adjusted income levels between 2003 and 2017.

13. JCT, *Overview of Present Law and Economic Analysis Relating to the Marriage Tax Penalty, The Child Tax Credit, and The Alternative Minimum Tax*.

14. Lin and Tong, "Marriage and Taxes."

15. Crandall-Hollick, Pettit, and Sherlock, *The Federal Tax Treatment of Married Same-Sex Couples*. This study found that in 2004, there were about 200 statutory provisions in the U.S. Internal Revenue Code that rely on marital status as a determining factor of benefits/preferences. See also Appendix 1 and Appendix 2, in GAO-04-353 R, http://bit.ly/2TFiKZD. For further analysis, see Daniel Mitchell, "How to Fix the Marriage Penalty in the Tax Code," report, Heritage Foundation, February 8, 1999, https://herit.ag/2T0lufE.

16. Courtney Coile, "Marriage Penalties in Social Security Programs," the National Bureau of Economic Research, accessed in February 2019, http://bit.ly/2T1xBZO. Some studies also pointed out the challenges of measurement, because the size of the marriage penalty is determined by several factors that also affect marriage rates. For example, taxpayers with higher income and socioeconomic statuses historically have higher marriage rates, but they also tend to incur high marriage penalties. It would be erroneous to conclude that the marriage penalty encouraged these couples to get married.

17. Martin Feldstein and Dan Feenberg, "The Taxation of Two Earner Families," in *Empirical Foundations of Household Taxation*, edited by Martin Feldstein and James Poterba (Chicago: University of Chicago Press, 1996), 39-73.

18. Examples of countries that have adopted an individual system include Canada, Japan, Mexico, and the U.K. Major countries with joint taxation systems like the U.S. system include France, Germany, Ireland, and Norway. See OECD Family Database, "PF 1.4: Neutrality of Tax-Benefit Systems," last updated November 8, 2016, http://bit.ly/2F4fdMm.

19. See (1) Mitchell, "How to Fix the Marriage Penalty in the Tax Code"; (2) CBO, *For Better or For Worse*; and (3) JCT, *Overview of Present Law and Economic Analysis Relating to the Marriage Tax Penalty, The Child Tax Credit, and The Alternative Minimum Tax*. The CBO identified two additional approaches, the targeted EITC reform and flat tax reform.

20. The IRS does have an optional married filing separately status, but very few taxpayers use this option primarily because it typically results in higher tax liability than MFJ. Major reasons taxpayers may choose the married filing separately option are that the lower earning spouse has very high medical expenses, or one spouse is not very honest in disclosing certain items, such as taxable income, credits, or deductions.

21. Amir El-Sibaie, "TCJA: The Marriage Penalty and Bonus," Tax Foundation, February 14, 2018, http://bit.ly/2F3AXaV.

22. Calculated as $200,000*2%=$4,000. The 2% is 37%-35%=2%.

23. Stephen Fishman, "The New Tax Law Contains a Marriage Penalty," *Nolo* (blog), accessed February 2019, http://bit.ly/2HqGlGN. This is calculated as: ($400,000-$200,000)*0.9% = $1,800 prior to marriage. After marriage, ($800,000-$250,000)*0.9%=$4,950.

24. IRS, "Topic Number 560 – Additional Medicare Tax," January 28, 2019, http://bit.ly/2ESarQE.

25. Joyce Beebe, *Fiscal Federalism and the State and Local Tax Deduction Limit*, Issue brief no. 02.12.19, Rice University's Baker Institute for Public Policy, Houston, Texas, http://bit.ly/2VPQNeX.

26. Crandall-Hollick and Hughes, *The EITC: An Economic Analysis*.

27. The 1993 bill, formally the Omnibus Reconciliation Act of 1993, greatly expanded the EITC's dependency on family size; it also extended the credit to childless workers for the first time.

28. JCT, *Overview of Present Law and Economic Analysis Relating to the Marriage Tax Penalty, the Child Tax Credit, and the AMT*.

29. See (1) CBO, *For Better or For Worse*; (2) El-Sibaie, "TCJA: The Marriage Penalty and Bonus"; and (3) Chuck Marr, "Tax Deals Make Permanent Key Improvements to Working Family Tax Credits," *Center for Budget and Policy Priorities* (blog), December 16, 2015, http://bit.ly/2UxqWZ8.

30. Essentially, the TCJA changed from using the consumer price index for urban consumers (CPI-U) for inflation indexing to the Chained CPI-U (C-CPI-U). Because the C-CPI-U tends to grow slower than the CPI-U, the income thresholds would increase at a lower rate. See IRS, "2019 EITC Income Limits, Maximum Credit Amounts and Tax Law Updates," http://bit.ly/2u0BRi6.

31. Tax Policy Center, "Briefing Book: What is the Earned Income Tax Credit?" Accessed February 25, 2019, https://tpc.io/2NZqd0f.

32. (1) JCT, *Estimates of Federal Tax Expenditures for Fiscal Years 2018-2022*, JCX-81-18 (Washington, D.C.: JCT, October 4, 2018), https://www.jct.gov/publications.html?func=startdown&id=5148; and (2) JCT, *Estimates of Federal Tax Expenditures for Fiscal Years 2016-2020*.

33. (1) CBO, *For Better or For Worse: Marriage and the Federal Income Tax*, and (2) JCT, *Overview of Present Law and Economic Analysis Relating to the Marriage Tax Penalty, the Child Tax Credit, and the AMT*.

34. Defined as the taxpayers' combined AGI plus interest from tax-exempt investments, plus 50% of their combined Social Security benefits. See IRS, "Are Social Security Benefits Taxable?" November 15, 2018, http://bit.ly/2T1yzoU.

35. IRS, *Older American Tax Guide*, IRS Publication 554 (Washington, D.C.: IRS, January 8, 2019), http://bit.ly/2EQRzlc, 5.

36. Zhe Li, *Social Security: Revisiting Benefits for Spouses and Survivors*, R41479 (Washington, D.C.: Congressional Research Service, February 6, 2019), http://bit.ly/2SYR0L9.

37. Some divorce decrees ask spouses to relinquish the rights to Social Security, but if they are married for 10 years, this clause is worthless and is not enforced.

38. Social Security Administration, "Five Things Every Women Should Know About Social Security," September 2016, http://bit.ly/2F4i8on.

39. Lorie Konish, "How Getting Married Can Mess Up Your Social Security," *CNBC*, January 27, 2018, https://cnb.cx/2F5V8VV.

40. National Center for Education Statistics, "Table 303.7: Total Undergraduate Fall Enrollment in Degree Granting Postsecondary Institutions, 1970-2026," U.S. Department of Education, accessed February 25, 2019, http://bit.ly/2XU7IPB.

41. Social Security Administration, "Annual Statistical Supplement, 2018, Table 5.A15," http://bit.ly/2HrZkRp.

42. Li, *Social Security: Revisiting Benefits for Spouses and Survivors*.

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Cite as:
**Beebe, Joyce. 2019. *The Marriage Penalty after the TCJA: Effects on High- and Low-Income Households and the Elderly*. Baker Institute Report no. 03.26.19, Rice University's Baker Institute for Public Policy, Houston, Texas.**

**https://doi.org/10.25613/ce2d-tz84**