Executive Summary

Taxes are central to all aspects of women’s economic lives. Personal income taxes, payroll taxes, child care tax credits, earned income tax credits, and state and local taxes all have particular importance to women and all have aspects that adversely effect the majority of women. Largely for historical reasons, the American tax system is disconnected with the way women participate in the economy. The major elements of the tax system were put in place in the 1930s, 1940s and 1950s, when most women, certainly most mothers, were not in the workforce.

- Today 70 percent of all married women work for wages.
- 60 percent of mothers with children under the age of 6 work for wages.
- Yet, the tax laws are biased toward single-earner households in which only one spouse works and biased against two-earner households.

The “marriage penalty” in the tax code is not really a tax on marriage. It is tax on two earner households. When a wife enters the labor market, even if she earns only the minimum wage, she is automatically in her husband’s tax bracket. Moreover, even if her husband has paid the maximum Social Security tax, the wife who works must begin paying from the first dollar she earns.

Combine a 28 percent federal income tax with an 8.5 percent state and local income tax, then add a 7.65 percent Social Security (FICA) payroll tax, and the marginal tax rate of the second earner in the average household is more than 44 percent. In addition, when both spouses work they must usually begin to purchase many services the wife was providing free of financial cost in the home — child care, cooking, cleaning and so on. After these expenses, many women find that their actual net take-home pay is just a third of their wages. Some married working women actually lose money by entering the labor market.

These marriage penalties hit at the top and the bottom of the income ladder. It hits those at the top particularly hard because high-income earners are in the top tax brackets. Lower-income women also suffer a stiff marriage penalty because of the burden of accelerated phase-outs of the Earned Income Tax Credit (EITC), a federal program that gives low-wage workers extra cash through tax credits. Adding it all up, the tax system sends a curious message to American women:

- If you are middle- to upper-income and married, the incentive is not to work.
- If you are low-income and working, the incentive is not to marry.

The Social Security or federal payroll tax is particularly bad for working wives. This is because each spouse is already entitled to benefits based on the other spouse’s earnings. For example, a wife who never works
and never pays taxes is entitled to a retirement benefit equal to 50 percent of her husband’s benefits. After he dies, she is entitled to 100 percent of his benefits. When women work and pay taxes, however, they will collect benefits based on their own contributions, or on their husband’s contributions, but not both. As a result, many women discover they get little or nothing in return for years of paying taxes into the system because they claim a spousal share. In the case of two average income earners, for example, the wife’s decision to work will double the couple’s lifetime payroll taxes. But there will be very little increase in lifetime benefits.

When the tax law combines with employee benefits law, we confront another institution that has not kept pace with our changing society. The employee benefits system is organized from top to bottom to meet the needs of the one-earner family. At the same time the system discriminates against the two-earner couple. Consider a woman whose husband has generous health insurance for the couple through his employer. Since the woman does not want duplicate coverage when she accepts a job, it would be sensible for the employer to pay for higher wages instead. But federal law in general will not allow employees to choose between wages and benefits. Instead it forces employer to offer take-it-or-leave-it benefits that cannot be adjusted to meet the needs of modern families.

To bring our tax system into the 21st century, we should:

- Change the income tax law to permit each married partner to file separately and avoid unfair penalties for working wives.
- Allow a second-earner exemption which would let couples deduct work-related expenses associated with two earner households when calculating income taxes.
- Fix burdensome EITC phase-outs by doubling the level at which the phase-outs begin for two-earner households, thereby eliminating some of the highest marginal tax rates on some of the lowest income earners.
- Create a second-earner exemption for Social Security — exempting, for example, the first $10,000 of the second-earner’s wages — or allow “earnings sharing,” which would combine the taxes paid by a husband and a wife and split them equally for the benefit of each.
- Modify the child care expense burden for two-earner couples by allowing a tax deduction along the lines of a general business expense deduction.
- Alter rules relating to employer-provided benefits so earners can freely choose between taxable wages and nontaxed benefits, selecting the combination that best meets the employee’s family needs.

The tax system’s bias against working wives is inefficient and unfair. It is time for reform.
Setting the Stage

Look through the massive bulk of the Internal Revenue Code and you won’t see it. But it’s there, nonetheless, buried in the arcane language, conveyed in ways that this uniquely obscure text interacts with the details of daily life.

The “it” is the tax system’s bias against women. Just as the tax system itself is large, coercive and far-reaching in its effects, so too is its bias against women. You won’t ever see it in the written text, but it’s there. It’s there for the largely historic reason that major elements of the United States tax system were set up in the 1930s, ‘40s, and ‘50s, at a time when most married women stayed home to care for the children.1 By the dawn of the 21st century the real world had changed dramatically. Today, some 70 percent of all married mothers work outside the home for paid wages, and more than 60 percent of mothers with children under the age of 6 do so, too. (See Figure I.) Yet the Tax Code hasn’t caught up with this bit of demographic reality. Not by a long shot.

In this paper, I’ll illustrate how central tax is to just about all aspects of women’s economic lives in contemporary America. I shall use a consistent example of a fictional taxpayer, Sally, who is offered a job that pays $30,000 a year while Bill, her husband or fiancé (depending on the example), makes $60,000 at his job. Sally and Bill are solidly middle-, even upper-middle-income Americans. By starting with Sally, we shall come to see how the effects of tax can be even worse on women in both richer and poorer households.

FIGURE I
Percent of Mothers with Children under Age 6 in Paid Workforce

“Although the tax system was designed at a time when most married mothers stayed at home, today most of them are in the labor market.”
Throughout my discussion, I’ll keep the math simple. The main point—that women are being badly hurt by the present tax system—can be understood quite easily without advanced mathematical details. The basic truths of tax’s bias are clear enough.

I conclude by listing some surprisingly simple solutions to the problems posed by taxes for women: a women’s agenda for tax reform. We have ways to fix the woes we face. What we await is the will to do so, to bring tax into sync with modern times.

First let’s set a few things straight.

The main bias of tax falls—in the first instance—on married working mothers. The bias is captured in the striking fact that, on the average, a married working mother sacrifices two-thirds of her paid salary to work-related expenses and taxes. Some women, of course, can cut corners on expenses and do better; other women, however, do worse. Many women even lose money, in a cash-flow sense, in working for pay outside the home. That’s the reality I’ll be explaining.

Now, two questions that are sure to arise at some point: why just married working mothers, and why does the wife come second?

**Why Focus on Married Working Mothers?** There are two major reasons. One, while not all women get married, and not all have children, most do. Statistics suggest that well over 90 percent of women will be married for some time in their lives, and well over 80 percent of women who marry will have at least one child. At any point in time, some 70 percent of married mothers are in the paid workforce. Married working mothers are thus a very large and very important category of people.

Two, this large category of married working mothers is so central to life in America today that we can see effects on all women radiating out from the tax law’s treatment of this one subset. The main bias of tax falls on two-worker, two-parent households, but the effects are different at different income levels.

Among the upper classes, a bias against two-earner marriages is a bias against wives’ work. Indeed, at the very top of America’s income ladder, families with stay-at-home wives are disproportionately common. Non-working mothers eschew employment under the influence of a tax system set against working mothers.

The same bias against two-earner marriages becomes a bias against marriage at the lower-income levels. The highest marginal tax rates in America today fall on the working poor as they attempt to rise from the lower- to the middle-income classes. The marriage tax here is particularly severe. Unmarried mothers today face a tax and transfer system that makes low-income two-earner, two-parent households a virtual impossibility. Some 23 percent of
America’s children live today in single parent, female-headed households, the majority of them poor.4

In the vast middle class, the bias of the Tax Code against two-earner, two-parent households is a bias against what is in fact the norm — the most common form of household in America. A tax policy set against daily life results in stress. Most mothers in America today try to juggle two domains, the home and the paid job, with little help — least of all from their increasingly distant Uncle Sam.

Meantime, young women who want to work outside the home — and who want to build a career of their own — see that the stresses on working mothers abound. These women wait to get married, wait to have children — wait, that is, to enter the penalized zone of the married working mom. Once again, these decisions are made in the shadows of tax laws tilted against married working mothers.

So even though not all women are married working mothers, all plausibly could be, and the economic system reacts to them as such, pushing and distorting their choices of lifestyles. In short, all women are affected by tax.

**Why Treat the Wife’s Income as the Second Income?** The Tax Code does not speak of “men” and “women” directly. The bias of the Code is against two-earner families, more specifically the “second earner” within them. So the bias against women is not in the language. It’s in the reality.

In most two-parent families where one spouse works and the other stays at home, it’s the man who works.5 Most times, a working husband earns more than his working wife. But coming in second doesn’t just mean that one earns less. It’s more the case that it’s the wife who juggles work and family demands, the wife who debates staying home and quitting her job, the wife whose participation in the paid workforce is “optional.” Given these psychological facts, it makes sense for Sally and Bill to think what would happen if Sally stayed home. This is, after all, how economists and accountants think — on the margin. Holding the husband’s work constant, what does it mean to the household to have the wife work?

No one has to think this way. If you don’t, you can avoid sexist language — but only at the expense of not perceiving a sexist reality. It’s an economic fact that working wives don’t bring many additional dollars to the table in most American households. Of course, those dollars she does earn may, in certain circumstances, be critically important. There are other, long-term reasons to work, such as maintaining valuable job market skills and contacts. These factors help to explain why there are so many married working mothers, notwithstanding the biases of tax against them. Yet, at the end of the day, there will still be little additional money in the family’s bank account because of most married moms’ paid work.
Women and Taxes

7

The Income Tax, Marginal Rates and Joint Filing

With those qualifications behind us we have a good chance of understanding how the average working wife loses two-thirds or more of her salary to work-related expenses and taxes, and how the Tax Code affects every corner of women’s economic lives. We will begin with the best known of all taxes, the U.S. personal income tax.

**How Marginal Rates Work.** Income tax rate brackets work like the rungs on a ladder. As one climbs higher in the income scale, one enters new brackets on the margin. That is, you do not lose the benefits of the lower rate brackets, or rungs, for the dollars you have already earned. The present rate brackets for an individual look something like Table I. It actually isn’t all that easy to generate such a table, because the “zero bracket” varies depending on whether one itemizes her deductions or not, whether one has household dependents or not and so forth. To keep matters simple, our Table I is for an unmarried person with no dependents who is taking the so-called standard deduction.

Table I means that a single taxpayer pays no income tax on her first $7,500; after that, she pays 15 percent of each additional, or “marginal,” dollar until her income reaches $35,000; after that, she pays 28 percent on the margin, and so on.

Suppose, for example, that Sally, as yet unmarried, earns $40,000. Her income tax will be $5,525, determined as follows:

- 0 percent of $7,500, plus
- 15 percent of ($35,000-$7,500), or $4,125, plus
- 28 percent of ($40,000-$35,000), or $1,400.

Note that this is not the same as paying 28 percent of the full $40,000, which would be $11,200. Sally’s average tax is about 14 percent ($5,525 of tax divided by $40,000 of total income), far below her current marginal tax bracket of 28 percent.

<table>
<thead>
<tr>
<th>Income</th>
<th>Marginal Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 - 7,500</td>
<td>0</td>
</tr>
<tr>
<td>$7,500 - 35,000</td>
<td>15%</td>
</tr>
<tr>
<td>$35,000 - 73,000</td>
<td>28%</td>
</tr>
<tr>
<td>$73,000 - 144,000</td>
<td>31%</td>
</tr>
<tr>
<td>$144,000 - 305,000</td>
<td>36%</td>
</tr>
<tr>
<td>over $305,000</td>
<td>39.6%</td>
</tr>
</tbody>
</table>

“Income tax brackets work like the rungs on a ladder. As one climbs higher in income, one encounters higher brackets.”
Nonetheless, that marginal tax rate is critically important, for it shapes Sally’s marginal decisions. Suppose that her boss offers her $1,000, before tax, to come in and work on Sundays between Thanksgiving and Christmas. On that $1,000 — which would push her income from $40,000 to $41,000 — Sally will pay $280 in taxes. Looking at the federal income tax alone, Sally should consider whether it’s worth $720 — not $1,000 — for her to give up these days with her family.7

This is what thinking on the margin means.

How Joint Filing Works. The tax system has to decide what to do for husbands and wives. One option, which the United States largely had before 1948, and which many advanced countries around the world have now gone back to, is called separate filing. Under separate filing, marriage is irrelevant. Husbands and wives fill out their own tax forms, on their own incomes, under something like Table I above. Each spouse has her or his own zero bracket, and so forth.

A second option is called joint filing, where husbands and wives are treated as a single unit for taxpaying purposes. This is what America has had since 1948.

Once a tax system has joint filing, further questions arise as to what to do about the rate brackets for married couples.

Should the rate brackets stay the same for married and for unmarried persons? If they did, almost all couples where both spouses worked for pay would suffer a marriage penalty. Suppose, to keep things very simple, that Sally was earning $7,500 when she got engaged to Bill, who was earning $60,000. Under Table I, Sally is paying no tax at all; her income falls into her own zero bracket (I chose a low figure, for convenience’s sake). If, on marrying, Sally and Bill were to pay taxes under Table I as a couple, then the household income would be $67,500, and Sally’s $7,500 would have moved from her own zero bracket into the 28 percent joint bracket. Sally and Bill’s combined taxes would go up after their wedding day. Hence the “marriage penalty.”

Another approach, and what America did in 1948, is to double the unmarried person’s rate brackets for married couples. Looking still at Table I, the rate brackets for married couples, filing jointly, would say no taxes on income from $0 to $15,000, a 15 percent bracket from $15,000 to $70,000, and so on. Under such a system, there are no marriage penalties: taxes cannot increase on marriage. There are, however, marriage bonuses. These arise in couples with one primary or predominant earner. Think again of Sally earning $7,500 and Bill earning $60,000. Under Table I, quite a bit of Bill’s income as an unmarried person—$25,000 of it, to be precise—falls into the 28 percent rate bracket. If Sally and Bill got married, however, and if all the rate brackets in Table I doubled, then the household’s combined income would all fall in the 0 or 15 percent brackets, the latter now extending up to $70,000. I’ll skip the more detailed math here, but the point is that taxes decrease on marriage for

“The marriage penalty is not a burden on marriage; it’s a burden on two-earner couples.”
It is perhaps an unfortunate fact of logic that someone’s bonuses are someone else’s penalties. Under a 1948-style rate structure with its generous marriage bonuses, there were, necessarily, singles penalties. In our example, Bill sees his taxes go down when he marries. If he stays single, he logically can complain of a singles penalty (just as, today, the childless can complain about the tax system when they don’t benefit from child credits and the like). In part for this reason, Congress tinkered with the rate brackets in 1969, essentially splitting the difference between doing nothing, with its marriage penalties, and doubling the rate brackets, with its marriage bonuses. Specifically, Congress set the “married, filing jointly” rate brackets at 1.6 times the single, unmarried rate brackets. Once again, the precise numbers are complex because of itemized deductions, inflation adjustments, and the like, but the actual 2000 income tax rate brackets for married couples filing jointly look like those set out in Table II.

Now compare Tables I and II. You will notice that the rate brackets in Table II are higher than those in Table I, but they are not doubled amounts; the 15 percent bracket ends at $59,000, for example, falling between Table I’s $35,000 and its doubled amount, or $70,000. And so on.

Under this contemporary style of rate structure, there are both marriage bonuses and marriage penalties. Couples with two rather equal earners pay penalties, because they lose the benefit of some of the lower rate brackets (unmarried, they can each earn $35,000 and never pay tax at a 28 percent rate, for example). Slightly more than half of all married taxpaying couples today pay a penalty for being married, in this sense. Couples with one primary earner, on the other hand, still get a bonus, because the rate brackets that this one earner faces if married are wider and bigger than if he or she had not married. About 40 percent of all married taxpaying couples today get a tax bonus for getting married, again in this technical sense. For the remaining 10 percent of all couples, it comes out about the same.

**TABLE II**

<table>
<thead>
<tr>
<th>Income</th>
<th>Marginal Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 - 7,500</td>
<td>0</td>
</tr>
<tr>
<td>$13,000 - 59,000</td>
<td>15%</td>
</tr>
<tr>
<td>$59,000 - 123,000</td>
<td>28%</td>
</tr>
<tr>
<td>$123,000 - 180,000</td>
<td>31%</td>
</tr>
<tr>
<td>$180,000 - 311,000</td>
<td>36%</td>
</tr>
<tr>
<td>over $311,000</td>
<td>39.6%</td>
</tr>
</tbody>
</table>

“Slightly more than half of all married taxpaying couples today pay a penalty for being married.”
Why “Married, Filing Separately” Does Not Work. An option under current law, “married, filing separately,” does not solve the problem of two-earner married couples on whom the marriage penalty falls. To understand why, compare Tables I and II again. Note that there are two effects of being married. One is that you get to combine the income of husband and wife and file a single return; this is known as income-pooling, and it is a benefit — it is in fact what creates marriage bonuses. But a second effect is that the combined income is taxed under a rate structure set less favorably than double the amounts of the individual, unmarried rates; this creates marriage penalties.

The “married filing separately” rate structure is set at one-half the rates for married filing jointly; that is, one half of Table II. Couples who choose this option give up the benefits of income pooling while retaining the unfavorable rate brackets; in essence, they have rate brackets set at 0.8 (one half of 1.6) of the unmarried person’s ones. Only under rare circumstances not worth mentioning here does “married, filing separately” make sense; well over 95 percent of married couples file jointly, and those that do not tend to be estranged couples unable or unwilling to sign the same tax form.

Sally’s Problem. Now we are in a position to see Sally’s difficulties more clearly. Suppose that Sally and Bill are married; Bill earns $60,000; and it’s not even an option worth consideration that Bill quit his paid job. Sally is thinking about going to work, going back to work or staying at work. These conditions set the stage for marginal thinking.

If Sally works (or continues to work) and earns $30,000, the couple’s total income will be $90,000. If she stays home, it will be $60,000. Under the correct understanding of marginal tax rates, then, all of Sally’s $30,000 will fall in the income tax’s 28 percent bracket. The federal government will take $8,400 of it.

From another — but equivalent — perspective, Sally’s $30,000 will bring home $21,600 after income taxes, given Bill’s work as fixed.

Now $21,600 is still a significant sum; it’s 72 percent of Sally’s pretax salary, after all.

But wait. We’re just getting started.

Not Just the Income Tax, and Not Just the Marriage Penalty

The federal personal income tax is not the only tax that Sally’s work will trigger. She will also have to pay the federal payroll tax — the combined Social Security and Medicare “contribution.” Social Security is set at 6.2 percent of earnings up to a ceiling, now $84,900, for both employee and employer; Medicare is 1.45 percent without a ceiling. Combined, that’s another 7.65 percent Sally must pay to Uncle Sam.
This federal payroll tax is a tax. It’s a mandatory governmental extraction from your paycheck. It’s called a “contribution,” but you have no real choice but to pay it. And while it’s tied to a system of benefits that you may get one day, this tie is essentially arbitrary — your Social Security “contributions” don’t go into any account with your name on it. The federal government has certain expenditure needs, including paying for Social Security and Medicare benefits, and at the same time, it has certain revenue sources, such as income and payroll taxes. Any link between particular revenues and particular expenditures is essentially arbitrary. This is why presidents and Congresses often argue about whether or not to spend the “Social Security surplus” — because there is nothing but politics, and the outcome of these arguments, to keep them from doing so.

It’s worse for married working women, because Social Security, as a benefit system, does provide for non-working wives as both retiree spouses and widows. This is all fine and good, except that there’s no adjustment made for working wives. The net result is that many married working women today are paying a pure tax with no offsetting benefit.

It gets even worse. Unlike the income tax, the federal payroll tax system has no zero bracket, no accommodation whatsoever for children or child care, no minimum threshold. It works like a flat wage tax up to its ceiling — everyone pays the same percentage of wages in tax — after which it drops off.

It gets worse still. Sally will see 7.65 percent of her $30,000 salary, or approximately $2,300, taken out of her paycheck for payroll taxes, right off the top. But there’s another $2,300, the so-called employer’s share, that Sally’s boss must pay to the federal government on account of Sally’s work. This is money that the employer could have given to Sally in cash or in benefits — perhaps by providing child-care. To an employer, a dollar is a dollar; Sally’s work better be worth $32,300, or it wouldn’t make sense to employ her; if Sally’s work is worth that much, the employer doesn’t care whether it cuts the checks to Sally, her children — or her distant Uncle Sam. In other words, to an economist, the federal payroll tax is in essence a 15.3 percent tax, because the employee really, ultimately, bears the economic burden of the so-called employer’s share.

Viewed this way, it should come as no surprise that the payroll tax is a very large tax indeed, collecting about 80 percent as much as the income tax does. Well over 70 percent of American households pay more in payroll taxes than in income taxes.10

Back to Sally: We can add the $2,300 coming out of her $30,000 (the employer’s share remaining offstage, as an opportunity lost) to the $8,400 in income taxes Sally’s work generates. That’s $10,700 to Uncle Sam, right off the bat; $19,300 left for Sally and Bill and the kids.

But wait.

We’re not done yet.
State Taxes, Too. The federal government isn’t the only show in town. States and even counties and cities collect taxes, too, often wage-based ones.

More than 40 states levy state-level income taxes. Marginal rates range up to 9 percent in Pennsylvania, 9.3 percent in California, 11 percent in Montana and 12 percent in North Dakota. A couple of states, Vermont and Rhode Island, simplify their own affairs by setting their state level income tax at a fixed percentage of about 25 percent of the federal income tax charge. All of these state income taxes work the same as the federal tax methodology; when it comes to husbands and wives, they all have joint filing, pushing Sally into Bill’s rate bracket.

Many cities and even counties levy taxes, too. There are local payroll taxes, state disability funds and so forth. Even the sales tax can come into play, because working women are likely to purchase more goods, including restaurant meals, subject to such taxes. There are often commuter taxes to pay (tolls, etc.), and so on.

All told, it seems reasonable to put a figure of from 7 percent to 10 percent on Sally’s tax debts to other government divisions; splitting the difference, let’s call it 8.5 percent, for another $2,450.

Adding It All Up. So far, looking at taxes alone, Sally has lost $13,150 of her $30,000 salary almost 44 percent, to federal income and payroll taxes, plus state and local levies. Sally’s job is bringing home $16,850 to the household.

But wait.

We’re not done yet.

Not the Marriage Penalty. The marriage penalty arose, as we saw above, because the rate brackets fail to double when moving from single to married persons. Marriage penalties are a bad thing, but they are not Sally’s main problem. Rather, Sally’s tax problems so far are due to the secondary earner bias in the system. This occurs because the joint filing system pushes Sally, as the “secondary” earner, into a tax rate bracket dictated by Bill’s work. Whereas Bill, as the primary earner, entered the workforce at the zero bracket, Sally’s very first dollar of earnings is getting taxed at the 44 percent level, as already explained (and, once again, this can be worse — an even higher tax rate — for both richer and poorer working wives, as we’ll see below).

A system of separate filing — either mandatory or optional — would change this situation. Under separate filing, Sally would fill out her own tax return on her own earnings, and she would then get her own zero bracket. There would be no second earner bias. But the law doesn’t provide for that now.

“On the average, an earner pays 8.5 percent in state and local taxes and a 7.65 percent FICA tax in addition to federal taxes.”
The Dollar Costs of Work

We still aren’t finished with the home economics of Sally’s situation, which keep getting worse. That’s because taxes are not the only expense that her working outside the home will generate. How the tax system accommodates — or fails to accommodate — additional work-related expenses is a large part of the story.

**Child Care Costs.** We haven’t said much about Sally and Bill’s kids, but now let’s give them two — remember, I said that married working mothers would bear the brunt of the problems, in the first instance.

Assuming that Sally stayed home, she could care for the kids herself and pay no tax on this valuable service. But if Sally works for pay outside the home, she will likely have to pay someone else to care for the kids while she’s at work. This will turn out to be doubly burdensome, because there’s another relative clamoring for care: Uncle Sam. Sally will have to earn enough money both to pay taxes on her salary, which she must do first, and, second, to pay for child care.

It’s hard to get good, accurate reporting on child-care expenses for a variety of reasons, and many families find friends or relatives to do the caring on an unpaid basis. According to data from the fall 1995 Survey of Income and Program Participation, families were paying an average of $85 a week for paid child care.\(^{13}\) Adjusting for inflation and rounding up, that’s about $100 a week — about $5,000 a year — for child care help. There are plenty of reasons to think that this comes in on the low side, but let’s be conservative. In any event, if Sally’s child care options were more expensive, her economic situation would only get worse, and it’s plenty bad enough as it is.

How will the tax system help with Sally’s annual $5,000 worth of child care costs? Note that there is a good argument that child care expenses are work-related ones, at least as much as three-martini lunches are. Sally certainly feels as if she must pay someone to watch the kids if she is to work for pay outside the home. Yet the tax system has long denied a general deduction for child care as a business expense, because having children is deemed to be a “personal,” and hence non-deductible, matter.\(^{14}\)

This logic is suspect. It’s not the personal decision to have kids that triggers the need for paid child care; it’s the economic decision to work, given that one already has children. Be that as it may, the tax system chooses to have a small child-care credit, skewed against the middle- and upper-income classes, in place of a more general deduction.\(^{15}\) Lately the tax law has been moving toward more and more generous per child — not child-care — credits.\(^{16}\) Once again, this might be all fine and good, but per child credits do nothing in particular for the working mothers of this world. They don’t help to offset the costs of child care, because you get the per child credit with or without child care expenses. And they don’t drive down the high marginal tax rates facing second earners like Sally.
In any event, the Tax Code’s child care credit is a limited and complicated animal. The bottom line is that Sally and Bill cannot possibly get more than a $960 benefit under it: 20 percent of $4,800 of verifiable out-of-pocket child-care expenses (some households may get slightly more benefit if their employers have set up a “dependent care assistance program,” but few have in fact done so, and relatively few households use these complex plans in any event). Assuming that Sally and Bill claim the maximum child-care credit, their real out-of-pocket child care costs will amount to around $4,000 a year ($5,000 minus $960, rounded down). Again this cost is triggered by Sally’s working outside the home.

Taxes and child-care combined are costing around $17,150; Sally’s $30,000 job means 12,850 real dollars to spend.

But wait. We’re not done yet.

**Not Just Child Care.** Child care costs aren’t the only ones that working women must pay. Households with two outside workers pay more for many things, including dry cleaning, commuting, residential cleaning services, restaurant meals, high-priced ready-to-eat groceries and so on. Again, illustrative data are hard to come by. But it’s far from unrealistic to think — in line with what actual consumer studies have shown — that these additional expenses of two-earner households will total at least $75 a week, or $3,750 over a 50-week year. How will the Tax Code help with these costs?

It won’t. There are no provisions for deducting any of the greater non-child-care work-related expenses of two-worker, two-parent households.

**Adding It Up.** Combine $13,150 in taxes with $5,000 of child care expenses, subtract $1,000 for the child-care credit under the Tax Code and add $3,750 for non-child-care work-related expenses, and Sally’s costs of work come to just about $21,000. Her $30,000 job brings home 9,000 real dollars to the household.

I haven’t used smoke and mirrors or done anything fancy here. Sally’s story simply captures the average situation of married working mothers in America, who get to keep one-third of what they make, as I noted above.

**The Curious Tale of the EITC**

Things are even worse for the low-income Sallies of the world, as noted throughout the above discussion. This is because the phaseouts of benefits such as the earned income tax credit, or EITC, work just like taxes on their situation. This takes a bit of explaining.

The EITC is now the largest federal program of assistance to the poor, far bigger than what remains of now old-fashioned “welfare” programs. Begun in the 1970s largely to offset the burden of payroll taxes on the working poor, the EITC grew, especially in the 1990s, as a “workfare” program, largely replacing welfare as we had come to know it.
The EITC operates as a negative income tax. Over an initial range of earnings — again giving exact numbers is complicated — the federal government pays low-wage workers extra cash through the tax credit. This is now even available in a form of negative withholding, built into payroll checks. The payments can be significant: up to 40 percent of earned income for a taxpayer with two or more dependents, over a range of income as high as $10,000. In other words, the federal government kicks in up to $4,000, above wages, to help out the working poor.

The EITC has been a highly successful program for helping the transition of the non-working into the paid workforce, and in helping the working poor to make ends meet. Problems begin when the government weans folks away from the EITC under a so-called phaseout. Workers begin to lose their EITC benefits once they start to earn “too much;” the phaseout occurs at 21 percent of marginal earned income for a person with two or more dependents. This continues until the positive payback brings the total EITC amount — the amount paid under the tax credit minus the amount paid back under the phaseout — down to zero. In other words, whereas the very poor get a full EITC benefit, the near-poor systematically lose that benefit at the significant rate of 21 percent.

Although it may not seem like it at first, phasing out a benefit is the same thing as taxing someone. Consider that if Sally earns $10,000 and has two children, the government gives her $4,000. But as she earns more money, reaching into the phaseout range, the government takes that $4,000 away from her. The missing dollars will surely feel like a tax to Sally, and any economist or accountant would agree.

Viewed in this way, the EITC is no more and no less than its own tax system, running alongside the regular income tax. It simply has a negative marginal rate as its initial range. The EITC boils down to the tax rate structure shown in Table III.

An unmarried Sally must face the tax rates in Table I combined with those in Table III. For her first $7,500 or so, this comes out well enough — no positive income tax and a negative EITC of 40 percent that more than offsets the 7.65 percent payroll tax burden.

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**TABLE III**

<table>
<thead>
<tr>
<th>Earned Income</th>
<th>Marginal EITC Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 - 10,000</td>
<td>-40%</td>
</tr>
<tr>
<td>$10,000 - 13,000</td>
<td>0%</td>
</tr>
<tr>
<td>$13,000 - 32,000</td>
<td>21.06%</td>
</tr>
<tr>
<td>over $32,000</td>
<td>0%</td>
</tr>
</tbody>
</table>

“EITC phaseouts operate as a tax system, often with extremely high marginal rates.”
But look what happens to the poor Sally if she makes more than $13,000 — barely more than a minimum wage job. Her marginal tax rate — and recall the importance of the margin — quickly becomes almost 44 percent, the same facing the solidly upper middle-income class Sally in our first extended example. This comes from adding together the income tax rate of 15 percent from Table I, the ever-present 7.65 percent payroll tax rate and the 21.06 percent EITC phaseout rate.

It gets worse. Recall the contrast between Tables I and II. The rate brackets under the regular income tax go up by 1.6 times for married couples — not as good as double the amount, but better than nothing. Had they not gone up at all, then couples could only have received a marriage penalty, tax-wise, for going to the altar.

Guess what? The rate brackets under the EITC do not go up at all for marriage! Table III applies in full force to single persons or to married couples, unadjusted. The steepest marriage penalties in America, percentage-wise, apply to lower-income households. It’s all but impossible to have two married working parents qualify for the full EITC.

To take a particularly gruesome example, imagine that Sally and Bill each made $13,000, and were each supporting two kids. Unmarried, they would get a combined $8,000 under the EITC. Married, this falls to $1,270. That’s a marriage penalty of $6,730 under the EITC, a staggering 26 percent of Sally and Bill’s combined earned incomes! To set this in context, as a percentage matter, it would be as if a Sally earning $30,000 and a Bill earning $60,000 would have to pay an additional $23,000 a year to their distant Uncle Sam for the privilege of being married.

No wonder so many lower-income households feature single parents, or unmarried parents living together.22

**Not Just the EITC.** It gets worse. The EITC is not the only government program that works through a high marginal tax rate on the near poor. Phaseouts abound, under housing subsidy programs, state welfare laws and so forth. In a wonderfully lucid piece of scholarship, law professor Daniel Shaviro explains how marginal tax rates facing the working poor often exceed 50 percent, and sometimes go over 100 percent!23 That means that one literally loses money by earning an extra dollar — an absurd state of affairs.

Shaviro shows that a one-parent, two child household in certain high benefit states, and receiving federal housing subsidies, faces marginal tax rates of 89.6 percent on earned income from $9,800 to $12,850, 109.2 percent from $12,850 to $14,350 and 78 percent for most of the range from $14,350 to $25,000. It can be even worse if one is married.

Given these biases against two-earner families among the poor and near-poor, it is not surprising that single-parent families predominate among the lowest income classes. Not surprising, just sad.

**What We Don’t Know.** It is important to note that none of the tax effects we’ve been discussing depends on citizens’ consciously being aware of
any of the details of the tax law. Often when I’ve explained the effects of tax and transfer policies on lower-income households, especially women, people will scoff. “It’s all so complicated,” skeptics assert. “How could it affect anyone in real life?”

There’s an easy answer: What we don’t know can most definitely hurt us. It’s a fact that, on the average, middle-class working mothers lose two-thirds of their salary to work-related expenses and taxes. Whether Sally in our extended example did the math or not, understood tax or not, her $30,000 job was only adding some $9,000 to the family’s bottom line.

In the lower-income classes, by marrying, women can sometimes just flat out lose money, in the form of benefits as well as cash, by having their wages taxed and their credits phased out. Whether or not they ever read the tax laws, their bottom lines will suffer. Two-parent, two-worker families will not form, or will not be economically stable if they do form. Looking around, young women growing up in lower-income households will not have many role models for becoming married working mothers. They might well blame the men in their lives for this sorry state of affairs — although there is evidence that many low-income men are supporting families outside of marriage, which they may not be able to afford24 — but it’s a fictional guy, Uncle Sam, who deserves part of the blame, too.

The Zoe Baird Blues

So the average Sally, a middle-income working mother, sees 67 cents on the dollar lost to taxes and work-related expenses, piling the stresses on her life. Poorer Sallies have it even worse, for they are apt to lose all of their benefits — cash, to them — by marrying, making marriage a luxury they cannot afford. What about the wealthier Sallies of this world?

It turns out that they have it pretty tough, too.

First off, the simple math of progressive marginal rates hits the upper-income secondary earner hard. Whereas Bill’s work in our extended example had placed Sally in a 28 percent federal income tax bracket on her first dollar of labor market earnings, the wife in America’s wealthiest households enters or stays in the workforce at a nearly 40 percent federal income tax rate. Add to this 10 percent state and local taxes and the customary 7.65 percent payroll tax, and the wealthy Sally’s marginal tax rate is well above 50 percent, approaching 60 percent. Her wages are cut by more than half, right off the bat.

It gets worse. Child care costs, like a good many expenses, are apt to rise with income. Ask Zoe Baird, President Bill Clinton’s ill-fated former nominee for attorney general. If our upper-income Sally must pay $200 a week, or $10,000 a year, to have someone watch the kids while she works, she still won’t get any more back in tax relief than the $960 that the middle-income Sally got. If additional work-related expenses are $100 a week, or $5,000 a year, then the upper income Sally’s $30,000 simply loses money for the
household. Specifically, she loses some $18,000 in taxes, $9,000 in child care costs net of the tax credit and $5,000 in additional work-related expenses. Her $30,000 job is costing the family $2,000 in cash — not to mention lost time and stress!

A Look at Bill. It is perhaps easiest to see one particularly pernicious effect of the tax system on women among the upper-income classes. To see the problem, consider first a basic puzzle of life in America today. As Figure I (and abundant other real-world evidence) shows, women now work outside the home, persistently and well. Among two-parent households, two working parents are now by far the norm. At the same time, modern families often lament their loss of time available to spend with their children. Why, then, don’t we see a model where both parents work part-time, or something less than full-time at least, while both also spend time parenting on their own? This model of family life remains extremely rare. While some working mothers — though fewer than a quarter of them, it seems — work part-time, almost no married men do.25

The case of the rich Sally supplies part of the answer to this puzzle. We just saw how a $30,000 job for Sally might lose money for the Sally and Bill household. But this is not true of any additional work that Bill might put in. For one thing, by this point, Bill is actually in a lower tax bracket than his wife is; once the Social Security ceiling of $84,900 has been passed, Bill only pays his 1.45 percent Medicare portion of the payroll taxes. Further, as Bill’s employer no longer has to pay a matching 6.2 percent Social Security tax on account of Bill’s work, it is easier to give Bill a raise in the first place. So, whereas Sally’s salary at the start falls in a 60 percent marginal tax rate, all things considered, Bill is closer to a 50 percent tax rate on any more money he earns.

More importantly, Bill’s extra work doesn’t open up the need for paid child care or most of the other work-related expenses that Sally’s marginal work does. While Bill works overtime, or simply puts in extra hours hoping to succeed, Sally can watch the kids tax-free. While a $30,000 job for Sally might cost the family $2,000, a $30,000 promotion for Bill — while it might take Daddy away from home a bit more — is apt to net $15,000 cash.

The economic choice for families is thus clear: they ought to have a specialized division of labor, having one spouse succeed at paid work, the other at home work. Needless to say, it’s almost always the husband doing the paid work. Studies and anecdotes continue to confirm the commonsense notion that a man with a stay-at-home wife has an easier time succeeding in the workforce. What this common sense doesn’t always show, however, is just how much our more or less conscious choices of tax policy have shaped the status quo.

No Pity? It’s easy enough to feel little or no pity for the rich Sallies of this world. We certainly cannot say that life is bad on top of the income scale. But it’s still hard to be a working wife among the upper classes — not only do the dollars not make sense, but again the role models are limited. In many wealthy communities across America, stay-at-home wives are the norm, and
working wives feel guilty on account of their paid work. There are good reasons why all Americans should care about this bias against upper-income working wives.

For one thing, it is a bias against women: wealthy women, to be sure, but women nonetheless. The tax structure pushes the upper-income Bills to work more and the upper-income Sallies to stay home. That’s not fair, and it should change.

Two, the bias against working wives among the wealthiest households contributes to an overall “glass ceiling” effect in society. Women are pushed away from high-paying positions of power and influence. That deprives the entire economy of a valuable asset and perpetuates sexist stereotypes established in prior eras.

Finally, the biases of tax set up a disappointing discontinuity across the income ranges. Put together the stories we have just considered. Among the low-income Sallies of this world, the bias is against marriage. So poor mothers struggle alone, unmarried, in single-parent households. In the middle-income ranges, where two-parent households become more prevalent, married mothers do indeed work outside the home in large numbers. But the system is set against them, and their work — and lives — are stressful, torn between the two worlds of work and family, often for scant real take-home pay. On the other side of this stress, in the upper income ranges, women return to the home.

What’s up with all this? What message are we sending to our daughters? That if a family really needs more money, it is acceptable for a woman to work double-time to get it; once a family has the wealth, the wife should go back into the home? In a new millennium, a social policy that pushes in that direction seems — or ought to seem — backward.

Beyond the Fringe

Experts no longer refer to the various benefits received at the workplace as “fringe” ones; the more common term today is “noncash compensation.” No wonder: such forms of remuneration now contribute nearly 40 cents for each dollar earned in cash compensation. Tax, again, is a big part of the story. The reason is simple: such forms of noncash compensation as employer-provided medical insurance and qualified pension programs can be received tax-free. So a worker in the 40 percent tax bracket, say, can get $10 in qualified pension or medical benefits in lieu of $6 in cash, because $10 paid in cash will generate $4 in taxes. It should surprise no one at this point to learn that, as tax rates remained high during the 1950s while the civilian workforce expanded, fringe benefits took off as a major part of the American compensation package.

Congress became worried that its encouragement of medical care and retirement savings through the Tax Code would lead to greater benefits for the rich, upper-income taxpayers in high tax rate brackets. Acting out of good intentions, the law put various anti-discrimination rules in place. In the context of the tax laws,
“anti-discrimination” means being opposed to benefits for highly compensated employees. So today employees who go to work for employers with medical care or pension plan provisions in place are often compelled to accept such coverage. A large part of the flourishing “temp” or independent contractor hiring practices is designed to skirt these rules.

Once again, so far, so good. For many Americans, their jobs provide a large portion of their medical insurance and retirement savings needs — though those unemployed or underemployed without health care coverage have legitimate concerns about a national health policy so heavily dependent on the Tax Code. The problem is once again with the working wife. Since Sally’s husband Bill is highly likely to be providing medical insurance and retirement savings to the household on account of his work, Sally neither needs nor wants more such benefits. What she needs is help with child care or with the other work-related expenses of being a working mother. When working women are essentially charged for benefits that they do not use, the same situation as occurs under Social Security recurs: working wives end up paying for non-working wives. In the case of so-called fringe benefits, this happens because the already-covered second worker like Sally simply lowers the average costs of a group health care policy — costs that are driven up by workers in one-earner households.

Fixing Things

Tax isn’t the only thing affecting the patterns of work and family in America today, but it is a very big thing indeed. America collects about one-third of its gross domestic product (GDP) in taxes of various sorts; on the average, 33 cents out of every dollar earned goes to the federal or some state or local government, somewhere. What we have learned above shows that the burden on some households, and particularly on the women within them, is even higher. How can such a large and coercive system not affect major elements of our social lives?

This may be surprising, but on reflection it really shouldn’t be. The tax system was set up when times were quite different than they are today. It’s hard enough to understand the biases of tax, hidden as they are in the complex prose, the technical provisions, the interactions among diverse sections of the huge tax and transfer system. Fixing the mess seems overwhelming, to say the least. But the good news that comes from the bad facts we have just seen is that there are indeed attractive ways to reverse course and solve the tax-induced problems facing women. What we really need is a way — and a will — to get our elected officials to listen.

What should be done? Consider the following six-step plan as a central piece of a meaningful women’s agenda for economic change. These six points track the problems discussed above; in many cases, there are diverse ways to implement reform, but the general direction of change ought to be clear.

**One: Fix the Income Tax.** The largest single problem of tax for women is the system of joint filing under the income tax, which, by effectively
putting the secondary earner in a tax bracket dictated by the primary earner’s salary, creates a major de facto bias against women. The simplest way to fix this problem is to revert to a system of separate filing, as America had before 1948 and as most advanced countries around the world now have. People sometimes object that this will be complicated in the case of unearned income, but separate filing can be limited to earned income, or wages. Separate filing would mean that each spouse fills out a tax form on his or her own wages, and each has her or his own zero bracket, and so forth. It would eliminate in one stroke the second earner bias of the federal income tax.

A problem with simply moving to separate filing — which is sometimes called mandatory separate filing because there would be no choice — is that it would eliminate the marriage bonuses that primarily one-earner families now receive under the rate structure as typified in Table II. For this reason, this proposal has been unpopular, as one-earner families are politically influential. A solution to this problem is to adopt optional separate filing. Under such a plan, married couples would have a choice of filing jointly, under something like Table III, with its 1.6 times the unmarried person’s rate brackets, or individually, as if unmarried, under Table I style rate brackets. Those couples getting a marriage bonus would continue to file jointly and get theirs; those couples now paying a marriage penalty — all of whom are two-earner ones — could opt out of joint filing, and eliminate the penalty (recall that “married, filing separately” today does not solve the problem, because their rate structure is set at one-half of the married filing jointly one, or 0.8 of the unmarried person’s rate schedule; optional separate filing would set the rate structure for “married, filing separately” equal to that for unmarried persons).

Two: Fix the Phaseouts. It’s inexcusable that there should be marriage penalties among the poor, the very income class where family structure is most fragile in any event. It is a simple matter to fix this, by doubling the phaseout range under the EITC and other workfare/welfare/entitlement programs for married couples. A more radical plan is just to get rid of phaseouts altogether. Phaseouts make the near-poor pay for the poor; without phaseouts, the burden is dispersed throughout all of the non-poor society. But if we are not ready, willing or able to go that far, we should at least fix the unconscionable situation of the status quo, where the working poor cannot afford to get married in the first place. Doubling the level at which the phaseouts begin for married households as compared to single parent ones would go a long way toward fixing this problem.

Three: Fix Social Security. Social Security, viewed purely as a tax system, is highly unfair to two-earner households and hence to the working wives within them. As a tax system, this could be largely remedied by creating a second earner exemption under the payroll tax, to prevent working wives from paying a pure tax with little or no offsetting benefit. Suppose, for example, that we exempted the first $10,000 of a second spouse’s wages from any payroll tax, on proof that her husband was earning and paying tax on at least as much. Considering now both the employer and the employee share, this would mean
$1,530 that the employer could pay out to the working wife, perhaps to be used for child care.

An alternative fix to the Social Security system looks in part to the benefits side of the coin. This is to allow full and complete “earnings sharing” under Social Security. Each spouse would get credit for one-half of the wages of either spouse up to the ceiling, to carry with him or her in case of divorce and so forth. This would at least alleviate the problem of many working wives paying a pure tax, with no offsetting benefit, as occurs today. But it is also considerably more complicated, and hence no doubt more contentious, than a second-earner exemption. More significantly, an earnings sharing plan would only help working wives far down the road in their lives — when they retire — whereas a second-earner exemption would free up much needed cash in the here and now to help with the stresses of the present.

**Four: Better Child Care, Not Per-Child Relief.** Working mothers need help with their child care expenses. Per-child credits, a recent trend in tax policy, do nothing to address these particular costs. The simplest way to provide child care relief is a simpler, and more generous, tax deduction along the lines of a general business expense deduction. I recommend allowing any taxpayer to deduct up to, say, $10,000 on a showing of qualified work-related child care expenses — basically, by showing earned income of at least $10,000 per spouse and the presence of minor children.

Note that such a provision would foster a very attractive principle of neutrality: child care should be tax-free. It would put the working mom on a par with the non-working one. Recall that if Sally stays home, she can care for her children herself, paying no tax on this highly valuable service. But if Sally must work, she has to first pay Uncle Sam and then the child care provider — she must earn perhaps twice as much as the child care costs merely to break even.

Note also that a simpler, more generous child care deduction would help all working mothers, including those in the upper-income brackets. This is as it should be if we are going to stop sending out the mixed and muddled message that only middle-class moms should work for pay.

Like the other changes I am advocating, better child care relief under the tax laws could well be a “win-win” situation. Child care is a legitimate cost of work for the many mothers of young children in or considering being in the paid workforce. When those women who want to work at least some of the time outside the home for pay cannot do so because of the prohibitive costs of taxes and child care combined, we all suffer. It’s not a question of forcing women to work for pay, or punishing those stay-at-home mothers happy in their important, and unpaid, work: it’s about allowing women to choose for themselves how to spend their time and productive energies. That economic freedom is a major part of America’s economic and social success, and we should allow women more of it.
Five: Better Work-Related Expense Deductions. As we saw above — and as common sense also shows — child care is not the only cost associated with two-worker, two-parent households. If we adopted a system of separate filing, wives could enter or remain in the paid workforce with their initial dollar of wages falling in a zero bracket; this might be relief enough. But in addition to or in lieu of that more fundamental step, we should allow a second earner deduction: that is, a subtraction for two-earner families to offset the tax costs of these work-related costs. For example, we could allow a deduction of 10 percent of the lesser-earning spouse’s salary, up to some maximum. The law in fact had such a provision in place from 1981 to 1986, and George W. Bush proposed reinstating it in the 2000 presidential campaign.29

Six: Fix the Fringe Benefit Rules. We should allow an exemption from the tax and ERISA anti-discrimination rules for workers whose spouses already receive medical insurance coverage and other fringe benefits for the family. These workers should be allowed to choose child care or other benefits or cash in lieu of the duplicative benefits that they are now forced to take. And, to be parallel — and fair — to those receiving tax-favored fringe benefits, the cash should be tax-free.

Last Words

The time is right — indeed, it is long overdue — to fix the tax system’s biases against two-worker families, which fall so often on the working mothers within them. Working mothers are a fact of life in America today. A tax system set against them is set against marriage for those who cannot afford tax’s burdens and toward stress for the vast numbers who live and work under its antiquated rules. Fixing the Tax Code to make it more compatible with the needs of women today isn’t all that complicated from a legislative standpoint, and may well be efficient and wealth-enhancing from an economic one. A women’s agenda for tax reform stands ready at hand. It is time to pick it up and advance it.

NOTE: Nothing written here should be construed as necessarily reflecting the views of the National Center for Policy Analysis or as an attempt to aid or hinder the passage of any bill before Congress.
Notes

1 This is a principal theme of my book, Edward J. McCaffery, *Taxing Women* (Chicago: University of Chicago Press, 1997, 1999 (paperback) (hereafter *Taxing Women*). Chapters Two and Three in particular discuss the historical aspects of the story.


3 U.S. Census Bureau, *Statistical Abstract of the United States: 2000*, 120th edition, Washington, D.C. Table 55 sets forth the marital status of the population by sex and age; Table 95 breaks down childless women and children born by race, age and marital status.

4 Ibid., Table 69. However, recent reports indicate that there has been a shift in the family structure since changes in welfare laws have lowered the financial burdens on being a two-parent household. See Blaine Harden, “2-Parent Families Rise after Change in Welfare Laws,” *New York Times*, August 1, 2001.


6 The tax tables included in this study are from 2000. The 2001 Bush Tax Package (the Economic Growth and Tax Relief Reconciliation Act of 2001) made many changes in rates and phased in several provisions over time. In addition to some present uncertainty as to whether all of these cuts will go into effect, however, high marginal rates and inequities between married and single taxpayers remain imbedded in the Tax Code.

7 This example deals only with the federal income tax, but Sally will also pay $76.50 in FICA (Social Security and Medicare) tax and possibly state income tax and local occupational tax, depending on where she lives. This is discussed in detail later in this paper.


9 See Internal Revenue Code (IRC) §1(d) (setting out “married, filing separately” rate structure).


12 See *Taxing Women*, pp. 19-20, where I make this point at slightly greater length.


14 See *Smith v. Commissioner*, 40 B.T.A. 1038 (1939), affirmed without opinion, 113 F.2d 114 (2nd Cir. 1940).

15 IRC § 21.

16 IRC § 24.

17 IRC § 21. A tax credit of 30 percent is allowed for certain expenses related to qualifying dependents, but is gradually phased down to 20 percent as yearly taxable income rises above $10,000 to $30,000. 21(a)(2). The maximum creditable amount is $4,800 for households with two or more qualifying dependents. 21(c)(2). Hence Sally and Bill could get 20 percent of $4,800 or $960 back on their taxes. Numerous technical provisions make it difficult for many households to qualify even for this limited amount. See *Taxing Women*, pp. 115-18 for more detail.

18 IRC § 129. Such plans would allow employees to take up to $5,000 tax free if the money is used for qualified child-care expenses, a provision that could save families in the 40 percent marginal rate bracket $2,000. Among other technicalities, however, such plans have a “use it or lose it” feature — employees must estimate in advance how much in child-care
costs they will incur during a year and sacrifice unused dollars if the estimate is too high. For this among other reasons, Section 21 child-care credits are about 50 times more invoked. See Taxing Women, pp. 118-19.


21 IRC. § 32(b)(1)(A).

22 But see Harden, “2-Parent Families Rise after Change in Welfare Laws,” noting a slight trend in the opposite direction.


24 Harden, “2-Parent Families Rise after Change in Welfare Laws.”

25 Taxing Women, p. 143.


27 IRC § 105, 106.

28 IRC § 401 et seq.

29 IRC § 221. (Prior law before Tax Reform Act of 1986.)
About the Author

Edward J. McCaffery is the Maurice Jones, Jr. Professor of Law, University of Southern California Law School, and is the Director of the USC-Caltech Center for the Study of Law and Politics. He has been the visiting Professor of Law and Economics, California Institute of Technology, since 1994, and since 1997 has been Executive Director and Chair of the Planning Committee, USC Institute on Federal Taxation, specializing in subjects such as Corporate Tax; Income Taxation; Partnership Tax; Property; Public Finance; and Tax Law and Policy. McCaffery is the author of nine books, including Taxing Women (1997), University of Chicago Press. He is also the author of numerous articles on taxation, tax reform and the specific effects taxes have on women. His work has been published in the Wall Street Journal, USA Today, and Working Woman, along with Southern California Review of Law & Women’s Studies, UCLA Women’s Law Journal and numerous other law reviews and journals.
About the NCPA

The National Center for Policy Analysis is a nonprofit, nonpartisan research institute founded in 1983 and funded exclusively by private contributions. The mission of the NCPA is to seek innovative private-sector solutions to public policy problems.

The center is probably best known for developing the concept of Medical Savings Accounts (MSAs). The Wall Street Journal called NCPA President John C. Goodman “the father of Medical Savings Accounts.” Sen. Phil Gramm said MSAs are “the only original idea in health policy in more than a decade.” Congress approved a pilot MSA program for small businesses and the self-employed in 1996 and voted in 1997 to allow Medicare beneficiaries to have MSAs.

Congress also relied on input from the NCPA in cutting the capital gains tax rate, in creating the Roth IRA and eliminating the Social Security earnings penalty. These proposals were part of the pro-growth tax cuts agenda contained in the Contract with America and first proposed by the NCPA and the U.S. Chamber of Commerce in 1991. Two other tax changes — an increase in the estate tax exemption and abolition of the 15 percent tax penalty on excess withdrawals from pension accounts — also reflect NCPA proposals.

Another NCPA innovation is the concept of taxpayer choice — letting taxpayers rather than government decide where their welfare dollars go. Legislation to create taxpayer choice at the state level was sponsored last year by Reps. John Kasich, J.C. Watts and others. The idea is also a priority of President Bush.

Entitlement reform is another important area. With the grant from the NCPA, economists at Texas A&M University have developed a model to analyze Social Security and Medicare, and is publishing a series of studies on the future of the two entitlement programs. This work is directed by Texas A&M Professor Tom Saving, who has been appointed a Social Security and Medicare trustee. The NCPA has also established an interactive online Social Security calculator (www.mysocialsecurity.org), that allows visitors to compare their Social Security benefits with returns if their payroll taxes had instead been invested privately.

In the 1980s, the NCPA was the first public policy institute to publish a report card on public schools based on results of student achievement exams, and an NCPA task force made the case for school choice. Subsequently, the NCPA pioneered the concept of education tax credits as one route to school choice. The NCPA and Children First America have published an Education Agenda for the new administration, a book whose contributors include Nobel laureate Milton Friedman, Sen. Jon Kyl and other school choice experts.

The NCPA’s Environmental Center works closely with other think tanks to provide common sense alternatives to extreme positions that frequently dominate environmental policy debates. In 1991 the NCPA organized a 76-member task force, representing 64 think tanks and research institutes, to produce Progressive Environmentalism, a pro-free enterprise, pro-science, pro-human report on environmental issues. The task force concluded that empowering individuals rather than government bureaucracies offers the greatest promise for a cleaner environment. Later, the NCPA produced New Environmentalism, written by Reason Foundation scholar Lynn Scarlett. The study proposes a framework for making the nation’s environmental efforts more effective while reducing regulatory burdens. More recent publications include a pathbreaking study that showed the costs of the Kyoto protocol on global climate change would far exceed any benefits.
In 1990 the NCPA’s Center for Health Policy Studies created a health care task force with representatives from 40 think tanks and research institutes. The pro-free enterprise policy proposals developed by the task force became the basis for a 1992 book, *Patient Power*, by John Goodman and Gerald Musgrave. More than 300,000 copies of the book were printed and distributed by the Cato Institute, and many credit it as becoming the focal point of opposition to Hillary Clinton’s health care reform plan.

A number of bills before Congress promise to protect patients from abuses by HMOs and other managed care plans. Although these bills are portrayed as consumer protection measures, NCPA studies show they would make insurance more costly and increase the number of uninsured Americans. An NCPA proposal to solve the problem of the growing number of Americans without health insurance would provide refundable tax credits for those who purchase their own health insurance. The NCPA has assisted members of Congress to formulate a bipartisan tax credits proposal.

NCPA studies, ideas and experts are quoted frequently in news stories nationwide. Columns written by NCPA experts appear regularly in national publications such as the *Wall Street Journal, Washington Times* and *Investor’s Business Daily*. NCPA Policy Chairman Pete du Pont has a weekly column on the *Wall Street Journal’s OpinionJournal.com* and another weekly column distributed by the Knight-Ridder Tribune news wire. In addition, his radio commentaries reach 2.2 million listeners across America.

According to Burrelle’s, the NCPA was mentioned or quoted in about 15 news articles every day somewhere in the United States in 2000. The advertising dollar equivalent of all print and broadcast coverage was more than $50 million.

The NCPA Internet site (www.ncpa.org) embraces the philosophy of one-stop shopping, linking visitors to the best available information on public policy, including studies produced by think tanks all over the world. Britannica.com named the NCPA Web site one of the best on the Internet for quality, accuracy of content, presentation and usability.

What Others Say about the NCPA

“...influencing the national debate with studies, reports and seminars.”

— TIME

“...steadily thrusting such ideas as ‘privatization’ of social services into the intellectual marketplace.”

— CHRISTIAN SCIENCE MONITOR

“The NCPA is unmistakably in the business of selling ideas...(it) markets its products with the sophistication of an IBM.”

— INDUSTRY WEEK

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