[JOINT COMMITTEE PRINT]

THE INCOME TAX TREATMENT OF MARRIED COUPLES AND SINGLE PERSONS

A REPORT

PREPARED BY THE STAFF OF THE

JOINT COMMITTEE ON TAXATION

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AND THE

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INTRODUCTION

This pamphlet presents a report by the staff of the Joint Committee on Taxation on the tax treatment of married couples and single persons. The report is in response to the Congressional interest expressed in the subject, such as the public hearings scheduled by the House Committee on Ways and Means for April 2–3, 1980. The Joint Committee staff began reviewing the tax treatment of married and single persons in connection with the Ways and Means Committee Task Force on the Tax Treatment of Single Persons and Married Couples Where Both Spouses Are Working, which met several times during the 94th Congress but did not make any recommendations or publish a report.

The first part of the pamphlet is a summary of the report. This is followed by a detailed discussion of the present treatment of married couples and single persons. The third part of the report gives a history of the federal income tax treatment of the family. Part IV presents a discussion of various tax issues involved, and Part V is an analysis of various proposals that have been made (including current legislative proposals). Finally, an Appendix presents data on trends in labor force participation.

I. SUMMARY

Present Law

The income tax law generally treats a married couple as one tax unit, which must pay tax on its total taxable income. While couples may elect to file separate returns, the tax law is carefully structured so that filing separate returns leads to a tax increase for almost all couples compared to filing a joint return. Different tax rate schedules apply to single persons and to single heads of households (persons who maintain households for certain relatives). Along with other provisions of the law, these rate schedules give rise to a "marriage penalty" or a "divorce bonus" when persons with relatively equal incomes marry or divorce each other.

Except for the policy of discouraging separate filing by married couples, there is little consistency in the way the tax law treats married couples relative to single persons. In some provisions, such as the social security payroll tax and some pension provisions of the income tax, a married couple is treated as two distinct individuals. In some provisions, such as the personal exemption, a couple is given exactly twice the benefit given to a single person. However, in other provisions, such as the $3,000 limit on the deductibility of capital losses against ordinary income, a married couple is given the same benefit as a single person. Still other provisions, such as the zero bracket amount (formerly the standard deduction), give the married couple more than a single person but less than twice as much.

The overall relationship between the tax burdens of married couples and single persons with the same income, and the actual marriage and divorce bonuses or penalties in particular cases, are the result of the combined effect of these varying approaches.

History

Under the initial version of the modern individual income tax, enacted in 1913, married couples were taxed as separate individuals. In 1930, the Supreme Court ruled that State community property laws were to be given effect for income tax purposes, which meant that, in the States with such laws, married couples could equally divide income considered community property, the split which minimizes a couple's combined tax burden in a progressive tax system. After the large increase in tax rates enacted to finance World War II, many States enacted community property laws in order to give their citizens the tax benefit of this income splitting.

To stop this community property epidemic, in 1948 Congress provided that all married couples could enjoy the benefits of income splitting by filing joint returns. Separate filing by married persons was allowed, but the loss of income splitting meant that this almost always led to a tax increase. Single persons were required to use the same rate schedules as married couples and received no special treatment to offset the married couples' benefit from income splitting; therefore, marriage almost always resulted in a tax reduction for married couples and divorce in a tax increase.

In 1951, Congress enacted the head-of-household rate schedule for single persons who maintain households for certain relatives. This provided a "divorce bonus" to married couples with children if they had relatively equal incomes.

In 1969, Congress enacted a special rate schedule for single persons to give them about one-half the benefit of income splitting and adjusted the head-of-household rate schedule to give these taxpayers about three-fourths of the benefit of income splitting. These changes increased the divorce bonus provided by the head-of-household rate schedule and created a "marriage penalty" when single persons with relatively equal incomes married each other.

Issues

The proper tax treatment of married couples and single persons involves judgments about equity, economic efficiency and complexity.

Equity

The first question is what should be the tax unit, the group whose income and deductions are pooled in determining tax liability. Many people believe that the tax system should be "marriage neutral"; that is, a married couple should have the same tax burden as two single persons, each of whom has the same income as one of the spouses. Many people, however, also believe that, because most married couples pool their income and spend as a unit, fairness requires that the tax burden of a married couple not depend on how their combined income is distributed between them. A third widely held proposition is that the tax system should be progressive; that is, as income rises, tax burdens should increase as a percentage of income. Many Americans, if asked, would express agreement with all three of these principles of tax equity: marriage neutrality, equal taxation of couples with equal incomes, and progressivity.

One problem with devising a satisfactory method of taxing married couples is that these three principles of tax equity are logically inconsistent. A tax system generally can have any two of them, but not all three. A progressive tax system that treats the individual, not the couple, as a tax unit preserves marriage neutrality but sacrifices equal taxation of couples with equal incomes because couples with unequal incomes would pay a larger combined tax than couples with relatively equal incomes. The present income tax sacrifices marriage neutrality, but maintains equal taxation of couples with equal incomes and progressivity. A proportional income tax could have both marriage neutrality and equal taxation of couples with equal incomes, but it would sacrifice progressivity (although some limited progressivity could be introduced through refundable per capita tax credits without violating the other two principles). Which of these three principles ought to be sacrificed is a subjective question.

A second equity issue is how the overall tax burden should be distributed between single persons, single heads of households, one-earner married couples and two-earner married couples. This too is essentially a subjective judgment. The enactment of income splitting in 1948 shifted the tax burden away from one-earner married couples and other couples with relatively unequal incomes. The special rate schedules for heads of households and for single persons shifted the burden away from these classes of taxpayers. Recent proposals to reduce the marriage penalty involve shifting the burden away from two-earner couples. Any proposal that shifts the tax burden away from one of these groups means increasing the relative burden on the others.

Efficiency

Considerations of economic efficiency dictate that tax rates be lowest on persons whose work effort would be most responsive to lower taxes. Virtually all statistical studies of the issue conclude that a wife's work effort is more responsive to reduced taxes than her husband's. Therefore, the present system of taxing both spouses' earnings at the same marginal tax rate is economically inefficient compared to a system with lower tax rates on the wife's earnings. (The marginal tax rate is the rate applicable to the next dollar of income.) However, the present system may have countervailing benefits to the extent society gains from uncompensated work performed by wives.

Complexity

Joint returns for married couples are simpler than separate returns. With separate returns, it is necessary to apportion unearned income and deductions between spouses, and there is no entirely satisfactory way of doing this. Attempting to allocate deductions and unearned income in a way that corresponds to how the couple would be taxed as two single persons would be complex and would invite manipulation of unearned income and deductions to achieve *de facto* income splitting and marriage bonuses. However, any arbitrary method of making these allocations could be considered unfair and would create its own marriage bonuses or penalties.

Alternative Proposals

Three basic proposals to change the current system have received most attention in recent years: mandatory separate filing by married couples using the same rate schedule as single persons; optional separate filing by married couples using the same rate schedule as single persons; and retention of the present system with *ad hoc* changes to reduce the marriage penalty, such as a deduction or credit for married couples based on the earnings of the spouse with the lower amount of earnings. Other suggestions, such as letting single persons use the joint return rate schedule, were popular in previous years but have not been prominently mentioned recently.

Mandatory separate filing

Under this proposal, separate filing by married couples would be mandatory or there would be no tax advantage to a joint return. This concept is embodied in H.R. 2553 (sponsored by Rep. McDonald) and

H.R. 108 (sponsored by Rep. Annunzio). If married persons were required to file separately and use the current single person's rate schedule, there would be tax increases for about 60 percent of married couples and tax cuts for the other 40 percent. Because there would be overall tax increase of between $12 and $18 billion, the rate schedule could be reduced below the current single person's rate schedule.

Any system in which separate filing was either mandatory or advantageous for many married couples would raise questions of how income (both earned income and investment income) and itemized deductions should be allocated between spouses. While these issues exist under present law, they are relevant only to the small number of married persons who file separately and are often resolved by penalizing the separate filers. There is no entirely satisfactory way of making these allocations in a system that encourage or mandates separate filing. Whatever method is adopted, however, will greatly affect the revenue impact. Some vestiges of joint filing would probably have to be maintained in provisions with phaseouts based on income; otherwise, low-income taxpayers with high-income spouses would receive tax benefits, such as the earned income credit, which were originally intended only for low-income families.

Mandatory separate filing would firmly resolve the equity question on the side of marriage neutrality, except to the extent that allocation rules for income and deductions created marriage bonuses or penalties or that vestiges of joint filing were retained. There would be a reduction in marginal tax rates on second earners. Also, there would be a shift in the tax burden away from two-earner couples and towards one-earner couples.

Optional separate filing

Under this proposal, separate filing by married couples using the single person's rate schedule would be optional. This concept is embodied in H.R. 3609 (sponsored by Rep. Fenwick), H.R. 5012 (sponsored by Rep. Moore) and S. 336 (sponsored by Sen. Mathias). The same technical issues raised by mandatory separate filing would also apply to optional separate filing, and an additional complexity would result from any tendency of married persons to compute their tax both separately and jointly to make sure they were minimizing their total tax burden.

Optional separate filing using the present single person's rate schedule would involve a tax cut of $7 to $9 billion, depending on how investment income and deductions were allocated between spouses. It would reduce marginal tax rates for second earners for those couples who elected separate filing, but not for others. It would shift the tax burden away from two-earner couples.

This proposal does not conclusively resolve the equity question. Optional separate filing would be characterized neither by marriage neutrality nor by equal taxation of couples with equal incomes. It would, however, eliminate marriage penalties.

Relief for second earners

Another group of proposals involves *ad hoc* relief for two-earner married couples, designed to reduce the marriage penalty and marginal tax rates on second earners while retaining the basic system of joint filing. Such relief could take the form of a deduction or credit equal to a percentage of the earnings of the spouse with the lower amount of earnings. A deduction of 10 percent of the first $10,000 of earnings is contained in H.R. 6203 (sponsored by Rep. Fisher), a deduction of 10 percent of the first $20,000 of earnings in S. 1247 (sponsored by Sen. Gravel) and H.R. 6822 (sponsored by Rep. Conable), and a deduction of 20 percent of the first $20,000 of earnings in S. 1877 (sponsored by Sen. Sasser). In H.R. 6822, the deduction is limited to couples where each spouse contributes at least 20 percent of the combined earned income. A credit of 10 percent of earnings, with a credit of $500, is contained in H.R. 6798 (sponsored by Rep. Patten).

A deduction or credit for second earners is one of the simplest ways to reduce the marriage penalty and the marginal tax rates on second earners. Per dollar of revenue loss, a deduction would be more effective in these respects; however, a credit gives more benefit to lower income couples than a deduction. If either a deduction or credit were adopted, the system would be characterized neither by marriage neutrality nor by equal taxation of couples with equal incomes.

Other proposals

Other proposals for resolving the married-single tax issue have been discussed in previous years, but have not been mentioned as prominently in the current debate. One suggestion is to return to the pre-1969 system by repealing the single person's rate schedule and requiring single persons to use the same rate schedule as married persons filing separate returns. This would eliminate the marriage penalty inherent in the rate schedules. However, it would shift the tax burden from both one- and two-earner married couples to single persons. The opposite proposal also has been discussed; that is, allowing single persons and heads of households to use the joint return rate schedule to reduce alleged discrimination against single persons. This is contained in H.R. 872 (sponsored by Rep. Yates). This proposal often is accompanied by suggestions for larger dependency exemptions and a deduction or credit for second earners.

Another possibility, which has received little attention, would be to reduce the marriage penalty by flattening out the tax rate schedule for single and joint returns. Byt itself, this would reduce progressivity, but there could be a tax credit equal to a flat amount per taxpayer (i.e., twice as much for a joint return as for a single return) to restore much of the progressivity lost by changing the rate schedule.

II. PRESENT LAW

Tax rate schedules and filing status

Rate schedules.—Under present law, there are four separate progressive tax rate schedules, and the particular schedule applicable to a taxpayer depends upon his or her filing status. Taxpayers are taxed at different rates depending upon whether they are single persons, married couples filing jointly, married couples filing separately, or single persons who maintain households for certain relatives (heads of households). The tax rates for married persons filing separately are the same as those for joint returns, but the tax brackets for separate returns are exactly one-half as wide. Thus, a married couple filing a joint return pays the same tax as two married persons filing separate returns, each of whom has one-half of the couple's combined taxable income. This feature of the tax law is known as "income splitting." The rate schedule for single persons lies about midway between the joint and separate return rate schedules (i.e., it gives single persons about half the benefit of income splitting), and the head-of-household rate schedule is about midway between the single person and joint return rate schedules.

The individual income tax applies to taxable income and begins at a marginal rate of 14 percent. There is no tax on the first tax bracket, referred to as the "zero bracket amount" (formerly the standard deduction). The zero bracket amount also is a floor under itemized deductions; that is, taxpayers may claim itemized deductions only to the extent the deductions exceed the applicable zero bracket amount. The zero bracket amount is $3,400 for married taxpayers filing jointly, $2,300 for single persons and heads of households, and $1,700 for married taxpayers filing separately (one-half the amount for married taxpayers who file jointly).

Joint returns.—Use of a joint return by married couples is elective and generally is allowed unless one of the spouses is a nonresident alien or the spouses have different taxable years. A consequence of filing a joint return is joint and several liability, not only for the tax reported, but also for deficiencies, interest and possible civil penalties.

If certain requirements are met, however, an "innocent spouse" may be relieved of liability for tax, including interest and penalties, attributable to an omission of gross income. First, income exceeding 25 percent of the gross income shown on the joint return must have been omitted from the return. The omitted income must be attributable solely to the spouse of the person seeking to avoid liability, and for the purposes of this requirement, attribution of income (except income from property) is determined without reference to community property laws. Second, the spouse seeking to avoid liability must prove that he or she did not, and had no reason to, know of the omitted income. Third, taking into account all the facts and circumstances, it must be inequitable to impose liability on the spouse seeking to avoid liability. In addition, the 50 percent fraud penalty cannot be imposed on a spouse who filed a joint return unless some part of the underpayment is due to the fraud of that spouse.

"Surviving spouses" are treated, for purposes of the tax rates, the same as married couples filing joint returns for the two years following the year of their spouse's death. Surviving spouses are widows or widowers who have not remarried and provide for certain dependents in their home.

Separate returns.—Because of the income splitting advantage of joint returns, the filing of a joint return almost always will result in less tax liability for a married couple than filing separate returns. Congress has adopted a general policy of not making it profitable for a married couple to file separately. Separate filing appears to be done when one spouse is unwilling to disclose income or deductions to the other spouse, when the couple is not in communication, when they cannot physically coordinate pooling the information needed for a joint return or when one spouse does not want to be liable for his or her spouse's tax on unknown or omitted income.

An example of one of the unusual situations in which filing separate returns actually produces a tax saving would be a couple with equal incomes where one spouse has incurred unusually large medical expenses. In this situation, because of the requirement that medical expenses may be deducted only to the extent they exceed 3 percent of adjusted gross income, separate returns (each with half of the couple's income) would produce a larger medical expense deduction and a lower tax liability than a joint return.

In certain situations, married couples are required to file joint returns in order to claim the benefit of certain exclusive or credits. This is a requirement, for example, in order for a married couple to claim the benefit of the earned income credit or the disability income exclusion, both of which provisions phase out as adjusted gross income rises. (If these tax benefits were not limited to joint returns, taxpayers could avoid the income phaseouts by using separate returns if the spouse eligible for the credit or exclusion had income below the phaseout range.)

When a fixed dollar amount is used in calculating the income tax for a joint return, the amount generally is halved for separate returns as part of the general policy to not encourage separate filing. This is the situation, for example, with respect to the limitation on the deduction for investment interest and on the deduction for moving expenses.

Single returns.—The tax rates applicable to single persons are higher than the tax rates applicable to married couples who have the same amount of income and file joint returns. Currently, for income levels between $10,000 and $100,000, the rate schedule for single persons provides tax liabilities which are 10 to 20 percent above those for married couples with the same taxable incomes, with the differential declining from 20 to 10 percent as income taxes. Two wage earners who have married generally pay more tax than they would if they were single as long as their incomes are sufficiently equally divided that their gain from income splitting is less than their loss of the single person's rate schedule.

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Head-of-household returns.—In 1951, Congress enacted a special set of tax rates for "heads of households" out of concern for single taxpayers who must maintain a household for other individuals (i.e., pay more than half the costs of a household). In general, a head of household is an unmarried individual who maintains a household for himself or herself and one or more dependents. Eligible dependents include an unmarried child, or an unmarried descendant of a child or the taxpayer, even if no dependency exemption is allowable to the taxpayer with respect to that person. Also, the requirement that the taxpayer and the dependent live in the same household is waived for the taxpayer's parents as long as the taxpayer pays more than half the cost of the parent's household.

Provisions treating spouses separately

Several provisions of the tax law treat spouses separately; that is, they treat married couples as two distinct individuals even though they are filing a joint return. Among the provisions in this category are those relating to Keogh plans and most individual retirement accounts, the child care credit, the $100 dividend exclusion (except for 1981 and 1982) and the social security payroll tax.

Self-employment pension plans and IRAs.—Individuals who are self-employed may, assuming all requirements are met, set aside up to $7,500 or 15 percent of earned income, whichever is less, annually for retirement. In the case of a married couple, each of whom is self-employed, each spouse may have his or her own retirement plan (the contributions to which would depend upon each spouse's earned income).

In general, individuals who are not covered by qualified retirement plans may establish individual retirement accounts (IRAs). The maximum deductible contribution to an IRA is 15 percent of compensation includible in gross income for the year or $1,500, whichever is less. In the case of married individuals, the maximum deduction for retirement savings is computed separately for each spouse, and is applied without regard to any community property laws. Thus, in the case of a married couple, each of whom qualifies for an IRA, the maximum combined annual deduction would be $3,000—the same as for two single individuals with IRAs. Also, if one spouse is covered by a qualified retirement plan, the other may still qualify for an IRA.

However, there is an exception to the separate treatment of a married person's IRAs in the case of a one-earner married couple. The spouse with compensation (and who is eligible to deduct IRA contributions) can contribute up to $875 to his or her own IRA and up to $875 to an IRA separately owned by his or her spouse, or can contribute up to $1,750 to an IRA which credits up to $875 to a subaccount for the husband and up to $875 to a subaccount for the wife.

Child care credit.—Present law allows a credit with respect to expenses for household and dependent care services necessary for gainful employment. In general, this credit is an amount equal to 20 percent of employment-related expenses paid by an individual during the taxable year. ("Employment-related expenses" are expenses for household services and expenses for the care of one or more qualifying individuals,[1] if those expenses are incurred to enable the taxpayer to be gainfully employed for a period during which there are one or more qualifying individuals with respect to the taxpayer.) The maximum amount of employment-related expenses that may be taken into account for purposes of the credit is $2,000 if there is one qualifying individual (for a maximum credit of $400) or $4,000 if there are two or more qualifying individuals (for a maximum credit of $800). In the case of a married individual, the amount of employment-related expenses which may be taken into account for purposes of the credit cannot exceed the lesser of such individual's earned income or the earned income of his or her spouse (unless the lesser-earning spouse is a student or is incapacitated), so the tax liability may depend on who earns the income. Married couples must file a joint return in order to claim the credit.

Dividend exclusion.—A provision which makes a similar distinction is the partial exclusion for dividends received by individuals. In computing the dividend exclusion, the taxpayer excludes from gross income the first $100 of dividends received during the taxable year. In the case of a joint return, each spouse is entitled to the exclusion in an amount not in excess of $100 with respect to dividends received by such spouse (for a maximum total exclusion of $200 if each spouse has at least $100 of dividend income). For example, if a husband receives $200 of dividends and his wife receives $100, the amount excluded from gross income on a joint return is $200 ($100 of the husband's dividends and the $100 of dividends received by the wife). On the other hand, if the husband receives $150 of dividends and the wife only $50, the amount excluded is $150 ($100 of the husband's dividends and the $50 of dividends received by the wife).

For 1981 and 1982, this feature of the law was changed by the Crude Oil Windfall Profit Tax Act of 1980. That Act includes an exclusion for dividends and certain kinds of interest equal to a maximum of $200 for a single return and $400 for a married couple filing a joint return. The $400 limit applies without regard to which spouse receives the interest or dividend income.

Social security payroll tax.—Another area of the tax law in which the earnings of spouses are treated separately is the social security payroll tax. The Federal Insurance Contributions Act (FICA) imposes two taxes on employers and two taxes on employees which are used to finance the payment of old-age, survivor and disability insurance benefits and medicare. The employee portion of the FICA tax for 1980 is 6.13 percent of up to $25,900 in wages. This tax is computed separately with respect to all individuals who are employed in work covered under FICA. Thus, married couples do not pool their income for purposes of determining their total FICA tax. Instead, each spouse pays FICA tax in accordance with his or her separate covered earnings.

Self-employed individuals generally are required to pay self-employment taxes. These taxes (currently at a rate of 8.10 percent on up to $25,900 of earnings) are applied against "net earnings from self-

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[1] A "qualifying individual" is a dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a dependency exemption; a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself; or the spouse of the taxpayer, if he or she is physically or mentally incapable of caring for himself or herself.

employment." In situations where both spouses have self-employment income, each spouse must determine his or her net earnings from self-employment and pay tax based on that amount.

Provisions giving married couples twice as much as single persons

Under present law, there are several provisions which give married couples filing joint returns twice as large a benefit as single individuals. Examples of provisions which are in this category are the personal exemption, the political contributions credit, the allowance for additional first-year depreciation, and the special provision relating to losses on small business stock. In addition, the new exclusion for dividends and interest (contained in the Crude Oil Windfall Profit Tax Act of 1980) falls into this category. In each case, heads of households are treated like other single persons.

Personal exemption.—Present law allows each taxpaying individual to claim an exemption of $1,000 for himself or herself and each of his or her qualified dependents. A single individual who has no dependents, thus, is entitled to a personal exemption deduction of $1,000. Married individuals who have no dependents may claim personal exemption deductions totaling $2,000 on a joint return. In addition, a married individual who files a separate return may claim an exemption for his or her spouse if the spouse has no gross income and is not the dependent of another taxpayer.

Political contributions credit.—Under present law, an individual is allowed a tax credit equal to one-half of all political contributions and all newsletter fund contributions made within the taxable year. The maximum amount of this credit for an individual is $50 for the taxable year. A married couple filing a joint return is entitled to a credit of up to $100.

First-year depreciation.—Under certain circumstances, taxpayers may claim additional first-year depreciation with respect to depreciable tangible personal property. The amount of such additional first-year depreciation generally is equal to 20 percent of the cost of the property. However, the maximum aggregate cost against which additional first-year depreciation may be claimed is limited to $10,000 in the case of an individual taxpayer. A husband and wife who file a joint return are allowed to claim additional first-year depreciation on up to $20,000 of new property.

Loss on small business stock.—The law allows individuals to treat losses with respect to certain small business stock as ordinary losses. Normally, a loss on the disposition of corporate stock held for investment purposes is either a short- or long-term capital loss depending upon the taxpayer's holding period and, thus, can offset only $3,000 of a taxpayer's ordinary income each year. The maximum amount of ordinary loss from the disposition of small business stock that may be claimed in any taxable year is limited to $50,000, except for taxpayers filing joint returns, in which case ordinary loss treatment is limited to $100,000.

Provisions treating single persons the same as married couples

Several provisions of the tax law treat single persons the same as married couples who file joint returns. Examples of provisions included in this category are the deduction of capital losses against ordinary income, the earned income credit, the investment credit, the work incentive credit, the targeted jobs tax credit, the add-on minimum tax, the disability income exclusion, the one-time exclusion of gain from the sale of a principal residence by individuals who are 55 or older, the deduction for investment interest, the casualty loss deduction, the deduction of expenditures to remove architectural and transportation barriers to the handicapped and elderly, the medical expense deduction for amounts paid for medical insurance, the deduction for moving expenses and the residential energy tax credits.

Capital loss deduction.—The limitation on the amount of ordinary income against which capital losses may be offset is the same amount ($3,000) for a single person as for a married couple. Thus, two single persons may deduct losses against twice as much ordinary income ($6,000) as a married couple.

Earned income credit.—The maximum amount of the earned income credit is $500 whether a taxpayer is married or single. Married couples must file joint returns to claim the credit. In the case of a two-earner couple, this can cause the credit to phase out more rapidly than for a single individual who qualifies for the credit because the phaseout range is the same for a married couple and a single person.

Investment credit.—The investment tax credit currently may not exceed $25,000 of an individual's tax liability, plus 70 percent of tax liability in excess of $25,000. (The 70 percent figure is scheduled to rise to 90 percent by 1982.) The same $25,000 limitation applies to married couples who file joint returns.

Minimum tax.—The add-on minimum tax is applied at a rate of 15 percent on certain tax preference items to the extent that they exceed the greater of $10,000 or one-half of the amount of regular taxes imposed during the year. The $10,000 exemption is the same for married couples filing jointly as for single persons.

Disability income exclusion.—Present law provides a maximum annual disability income exclusion of $5,200. Taxpayers are entitled to the same maximum exclusion whether they are single or are married and file joint returns. Married couples must file joint returns in order to claim the exclusion, which causes the exclusion to phase out more rapidly than for single taxpayers if each spouse has income.

Capital gain exclusion for homes.—The Revenue Act of 1978 provided a one-time exclusion, for taxpayers age 55 or older, for gain from the sale of a principal residence. The maximum amount of the exclusion is $100,000 whether taxpayers are single or are married and file joint returns. Also, a married person, whether filing separately or jointly, may not claim the exclusion if his or her spouse previously has claimed it. This feature of the law provides an incentive for someone age 55 or over whose home has appreciated in value to sell that home before marrying someone who previously has claimed the exclusion.

Investment interest.—In general, interest on investment indebtedness is limited to $10,000 per year, plus the taxpayer's net investment income. This limitation is the same for single taxpayers and married taxpayers who file joint returns.

Casualty loss deduction.—The casualty loss deduction allows taxpayers to deduct certain losses to the extent they exceed $100 per casualty. For purposes of the $100 limitation, a husband and wife filing a joint return are treated as one individual. Thus, spouses filing jointly are subject to the same limitation as single taxpayers.

Architectural barriers.—Present law allows taxpayers to deduct certain expenses (which otherwise would be capitalized) which are paid or incurred for the purpose of removing architectural and transportation barriers to the handicapped and elderly. The maximum amount of such expenses which may be deducted in any taxable year is $25,000 for a single person and a married couple.

Medical insurance deduction.—As part of the medical expense deduction, individuals are entitled to deduct an amount (not in excess of $150) equal to one-half of expenses paid for medical insurance. This limitation is the same whether a taxpayer is single, a married person filing separately or a married couple filing jointly.

Moving expense deduction.—Present law allows a deduction for certain moving expenses if all applicable requirements are met. Moving expenses which may be deducted without limit are travel expenses while en route from an old residence to a new residence and the costs of moving household goods and personal effects. In addition, up to $3,000 of the costs of premove househunting trips, temporary quarters, and expenses in connection with selling the old residence may be deducted (however, the costs of premove househunting trips and temporary quarters may not exceed $1,500). In general, these dollar limitations are the same for single persons and married couples.

Insulation credit.—Present law provides a credit for the installation of insulation and certain other energy-conserving items. This credit equals 15 percent of the first $2,000 of qualifying expenditures, for a maximum credit of $300. It is available only with respect to the installation of specifically enumerated items after April 19, 1977, and before January 1, 1986, with respect to a taxpayer's principal residence, if the residence was substantially completed before April 20, 1977. The maximum amount of credit ($300) is the same for single persons, married couples filing jointly and married persons filing separately. Similarly, the limitation on the expenditures eligible for the residential solar energy tax credit is the same for single persons, married couples filing jointly and married persons filing separately.

For each of the provisions discussed above except for the insulation credit, the solar credit and the $150 limit on deductible health insurance premiums, the relevant dollar amounts for married persons filing separate returns are one-half those for married couples filing joint returns.

Provisions allowing couples more than single persons but less than twice as much

Some provisions of the tax law fall in between giving single persons the same amount of benefit as married couples and giving married couples twice as much benefit as single persons. An example of such a provision is the credit for the elderly.

Elderly credit.—Under present law, an individual taxpayer age 65 or older is entitled to a tax credit equal to 15 percent of his or her credit base, minus certain offsets. The maximum credit base is:

Single individual or joint return where only one spouse is eligible	$2,500
Joint return where both spouses are eligible	3,750
Married individuals filing a separate return	1,875

The credit base is reduced by certain amounts received as a tax-free pension or annuity (for example, under social security or the railroad retirement system). In addition, it is reduced by one-half of the adjusted gross income in excess of certain limitations. These limitations are:

Single individuals	$7,500
Joint returns	10,000
Married individuals filing separate returns	5,000

Thus, a middle ground between single taxpayers and married couples filing joint returns is achieved under the credit for the elderly.

Zero bracket amount.—Another provision which achieves somewhat of a middle ground between single taxpayers and married taxpayers who file jointly is the zero bracket amount and the corresponding floor under itemized deductions, which replaced the standard deduction in 1977. The zero bracket amount equals $2,300 for single persons and $3,400 for married couples filing jointly. Thus, a married couple benefits from a zero bracket amount which is $1,100 more than for one single person, but $1,200 less than for two single people.

Unemployment compensation.—Under present law, unemployment compensation is includible in gross income in certain situations. In general, the amount of unemployment compensation included in gross income is an amount not greater than one-half of the excess of the taxpayer's adjusted gross income (including unemployment compensation) over the taxpayer's "base amount." The base amount is $25,000 in the case of a married couple filing a joint return, zero in the case of a married individual filing a separate return, and $20,000 in the case of all other individuals. The manner in which the provision operates can be illustrated by the following example, which assumes that the taxpayer has adjusted gross income of $20,000 plus unemployment compensation of $4,000:

(1) If the taxpayer is married and files a joint return, none of the unemployment compensation would be included in gross income;

(2) If the taxpayer is married and files a separate return, all of the unemployment compensation would be included in gross income; and

(3) If the taxpayer is single, $2,000 of the unemployment compensation would be included in gross income.

Income averaging

Under present law, individuals whose income fluctuates from year to year may take advantage of special provisions known as "income averaging." These provisions are designed to mitigate the impact of the progressive rate structure upon individuals whose income fluctuates widely from year to year or increases rapidly over a short period of time. Income averaging reduces the disparity that otherwise would exist between taxpayers whose income is received erratically and taxpayers whose income is approximately the same in the aggregate but which is spread more evenly from year to year.

Under the general income averaging provisions, income tax is computed by averaging income over a 5-year period. This 5-year period consists of the current taxable year (known as the "computation year") and a "base period" consisting of the four preceding taxable years. In general, a taxpayer must have "averagable" income in excess of $3,000 to be eligible for income averaging. For this purpose, averagable income is the excess of taxable income, after certain adjustments, over 120 percent of the average base-period income.

In the case of a taxpayer who, during the base period and computation years, has been single or, if married, has filed a joint return with the same spouse, no extraordinary adjustments need be made for purposes of income averaging.

However, if the taxpayer's marital status changed, or separate returns were filed, during the 5-year averaging period, then the taxpayer generally is required to reconstruct his or her income for the years affected.

If the taxpayer is married to the same person in the computation year and any base-period year, and the couple files a joint return in the computation year but filed separate returns for any base-period year, then base period taxable income for that base-period year is the sum of the taxable incomes of each spouse for that year. Moreover, if the taxpayer is married and files jointly in the computation year but both spouses were unmarried in a base-period year, base period taxable income for that base-period year is the sum of the taxable income of each spouse for that year.

Additional complexities arise if the taxpayers file a joint return for the computation year but filed joint returns with different spouses during any base-period year, or if the taxpayer files a separate return for the computation year but filed a joint return during any base-period year. In these types of situations, each taxpayer must, in computing adjusted gross income for the base-period year, use only those deductions applicable to items of his or her own gross income. If a joint return was filed for a base-period year, then in computing the taxpayer's taxable income for the base-period year, his or her separate deductions are determined by multiplying the total amount of such deductions on the joint return for the base-period year by a fraction, the numerator of which is the taxpayer's separate adjusted gross income and the denominator of which is the combined adjusted gross income on the joint return. However, if 85 percent or more of the combined adjusted gross income is attributable to only one of the taxpayers on the joint return, then all of the deductions are considered allowable to that taxpayer.

Although a taxpayer is required to compute his or her separate income and deductions in the two types of situations described above, his or her base-period income may not be less than the largest of the amounts determined under the following three methods:

(1) His or her separate income and deductions;

(2) If a separate return is filed in the computation year, 50 percent of the base period income resulting after adjusting the sum of his or her separate income and deductions and the separate income and deductions of his or her computation year spouse; or

(3) 50 percent of the base-period income resulting after adjusting the sum of his or her separate income and deductions and the separate income and deductions of his or her base-period year spouse.

Special rules apply in determining an individual's separate income and deductions where community-earned income is involved. In determining base-period income, the amount of personal-service income subject to community property laws that a taxpayer must take into account cannot be less than the amount he or she would have taken into account if such amount were not community income. Similarly, in determining his or her taxable income for the computation year, the amount taken into account cannot exceed the amount which would be taken into account if such amount were not community income.

Another income averaging adjustment that is based on a taxpayer's marital or filing status is that taxable income for each pre-1977 base-period year must be increased by $3,200 for a married couple filing a joint return, $2,200 for a single person, or $1,600 for a married person filing a separate return.

Definition of marital status for separated individuals

Another area of inconsistency in the income tax is the treatment of married individuals who are not living with their spouses. For purposes of determining a taxpayer's marital status, and thus the rate schedule (and various other provisions) which determines his or her tax liability, the Code provides that in two specific situations legally married individuals may be treated as unmarried. First, an individual who is legally separated from his spouse under a decree of separate maintenance is not considered to be married for tax purposes. Second, an individual is considered unmarried for tax purposes if the individual furnishes more than half the expenses of maintaining a household for himself and a dependent child and the individual's spouse does not live with him during the entire taxable year. Thus, legally married individuals in either of these two situations may claim a filing status—head of household or unmarried, whichever is applicable—more advantageous than filing separately.

Thus, married individuals who neither maintain a household for a dependent child nor are legally separated are treated as married, even if they live apart from their spouses during the entire taxable year. These individuals must file returns using married-filing-separately status if they are unable to file a joint return with their spouses. At the same time, for purposes of several provisions enacted during the 1970's, married individuals living apart from their spouses are treated as unmarried rather than married. The disability income exclusion is generally allowed to married individuals only if they file a joint return, but this restriction does not apply for individuals who have lived apart from their spouses at all times during the taxable year. The credit for the elderly is generally allowed to married individuals only if they file a joint return, but this restriction also does not apply for individuals who have lived apart from their spouses at all times during the taxable year. However, such individuals are generally allowed a lower credit than individuals whose filing status is unmarried. A portion of unemployment compensation is generally includible in the gross income of married individuals filing separately. However, such individuals who live apart from their spouses during the entire taxable year are treated in the same manner as unmarried individuals, so that a portion of unemployment compensation is includible in gross income only if the sum of unemployment compensation plus other gross income exceeds $20,000. Thus, these three provisions treat certain married individuals who live apart from their spouses during an entire year more favorably than they are treated under the definitions which determine the applicable rate schedule.

Finally, the credit for child and dependent care expenses generally is allowed to married individuals only if they file a joint return, but this restriction does not apply to an individual who maintains a household for a "qualifying individual" (who may be a disabled dependent who is not a child of the taxpayer) and whose spouse is not a member of the household during the last six months of the taxable year. Again, this special rule allows the credit to some married individuals who file a separate return.

Conclusion

This description of present law shows that Congress has not been consistent in its treatment of married couples and single persons. In some provisions, a married couple is treated twice as well as one single person; in others, it is treated like two single persons; in still others, it is treated like one single person; and in still others, it is treated partway in between one and two single persons. The definition of marriage, for tax purposes, is not consistent throughout the Code. The only consistent principle is the policy not to encourage separate filing but even that has exceptions.

III. HISTORY OF THE INCOME TAX TREATMENT OF THE FAMILY

Tax rate schedules and filing status

1913–1947

Unlike present law, the income tax law enacted in 1913 required married individuals to file separate returns if each had income. The Revenue Act of 1918 gave married couples the option of filing a joint return, but generally there was no advantage to doing so because the same progressive tax rates applied to both separate and joint returns. In fact, a married couple would minimize its total tax burden if it could divide its net income equally between husband and wife and file separately. For example, a couple with $20,000 of income would pay less tax if the husband and wife each reported $10,000 because, in a progressive tax system, each $10,000 increment would be subject to less than half the tax imposed on one income of $20,000.

Consequently, married couples living in community property States [1] had an advantage over married couples living in common law States. Generally, under community property law, one-half of the earnings of either spouse belongs to the other, and property acquired during the marriage is owned in equal shares.[2] Under "common law," which is followed in most States, the earnings of a spouse are generally the property of that spouse.

Prior to 1920, increasing numbers of married couples in community property States were filing separate returns, each of which reported one-half the couple's community income. As a result, couples in community property States paid less income tax than identical couples in common law States, except in the then-unusual case of a husband and wife with equal income.

Courts disagreed on whether the splitting of income by married residents of community property States was effective for Federal income tax purposes. In 1920, the Attorney General of the United States issued to the Secretary of the Treasury an opinion that concluded the community property laws of Texas were fully effective for federal income tax purposes.[3] Specifically, a husband and wife could each

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[1] Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington had community property laws. California's community property laws were not always effective to split a couple's community income for federal income tax purposes. See notes 6 and 9, *infra*.

[2] Each State's community property laws are different. In general, "community income" is owned equally by husband and wife. Personal service income (for example, wages or salary) is usually considered community income. Income from separate property (for example, property acquired by inheritance or before the marriage) is considered community income in some community property States and separate income in other community property States.

[3] 32 Op. Att'y Gen. 298 (1920).

report, for federal income tax purposes, one-half of the income deemed "community income" under State law. In the following year, the Attorney General issued an opinion [4] that reached the same conclusion with respect to all other community property States,[5] except California.[6] The Attorney General's opinions were published in 1920 and 1921 in Treasury Decisions.[7] The Treasury Regulations under the Revenue Act of 1924,[8] permitted spouses in all community property States, except California, to split income that was community property.

The validation by the Treasury Department of the different tax treatment of married couples in community property States and those in common law States prompted Congressional efforts to enact a uniform federal rule in the Revenue Act of 1921. The bill that passed the House provided that income received by any married couple in a community property State was includable in the gross income of the spouse having the management and control of community property. This provision was reported by the Senate Finance Committee, but was deleted on the Senate floor and dropped in conference. In 1924, the Secretary of the Treasury recommended a similar provision to the Ways and Means Committee, but it was not enacted.

In 1925, a taxpayer challenged in federal district court the Attorney General's and the Treasury Department's position that husbands and wives living in California could not split community income for federal income tax purposes.[9] The district court ruled that a husband and wife could each report one-half the income from community property and the husband's earnings. The decision in favor of the taxpayer was reversed by the United States Supreme Court on the grounds that California law, as interpreted by the Supreme Court of California, gave the wife a mere expectancy in the community property during the husband's life.

Soon after the Supreme Court's decision in favor of the government, the Secretary of the Treasury asked the Attorney General to reconsider the earlier opinions on community property law and federal income tax liability. The Acting Attorney General responded to the Secretary in 1927 by withdrawing the earlier opinions on the income tax effect of community property laws [10] and thereby leaving the Secretary of the Treasury free to litigate the issue in court.[11]

Three years later, test cases involving the community property laws of Washington, Arizona, Louisiana, and Texas reached the United States Supreme Court. The Supreme Court held that, unlike the California community property laws at issue in 1926, the laws of

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[4] 32 Op. Att'y Gen. 435 (1921).

[5] Arizona, Idaho, Louisiana, Nevada, New Mexico, and Washington.

[6] The Attorney General concluded that the community property laws of California did not give a wife a vested interest in one-half of the community property.

[7] T.D. 3071, 22 Treas. Dec. Int. Rev. 456 (1920); T.D. 3138, 23 Treas. Dec. Int. Rev. 238 (1921).

[8] Treas. Reg. 65, § 213, art. 31 (1924).

[9] *Robbins* v. *United States*, 5 F. 2d 690 (N.D. Ca. 1925), *rev'd*, 269 U.S. 315 (1926).

[10] See notes 3 and 4, *supra*.

[11] 35 Op. Att'y. Gen. 265 (1927).

Washington,[12] Arizona,[13] Louisiana,[14] and Texas[15] were effective to split community income between husband and wife for federal income tax purposes. The Court also reached the same conclusion with respect to the recently amended community property laws of California.[16]

In reaching this result in the lead case of *Poe* v. *Seaborn*, the Court first determined:

These sections [of the Revenue Act of 1926] lay a tax upon the net income of every individual. The Act goes no farther, and furnishes no other standard or definition of what constitutes an individual's income. *The use of the word 'of' denotes ownership.* It would be a strained construction, which, in the absence of further definition by Congress, should impute a broader significance to that phrase.[17]

The Court then concluded that the property laws of Washington vested ownership of community income and property equally in the husband and wife. Thus, a husband and wife living in Washington could file separate returns, each reporting one-half the community income.[18]

In the same year the Court decided *Poe* v. *Seaborn*, it ruled in *Lucas* v. *Earl* that a valid contract to divide earned income equally between a husband and wife was ineffective for federal income tax purposes.[19] The Supreme Court's decision in *Lucas* v. *Earl* meant that earned income could not be shifted among family members by private agreement, although it could in effect be shifted by the operation of State law in community property States.

After *Lucas* v. *Earl* and *Poe* v. *Seaborn* were decided, Congress and the Department of the Treasury made several attempts to change the taxation of married couples. The provisions considered and rejected during the 1930s and early 1940s included (1) mandatory joint returns for all married couples; (2) the taxation of community income to the spouse exercising management and control of such income; and (3) mandatory joint returns with a special allowance for the earned income of the husband or wife.

Through 1947, community property spouses continued to benefit from the splitting of income on separate returns. In the early years, however, this advantage over common law spouses was minimized by the relatively low tax rates. For those subject to tax during the years

[12] *Poe* v. *Seaborn*, 282 U.S. 101 (1930).
[13] *Goodell* v. *Koch*, 282 U.S. 118 (1930).
[14] *Bender* v. *Pfaff*, 282 U.S. 127 (1930).
[15] *Hopkins* v. *Bacon*, 282 U.S. 122 (1930).
[16] *United States* v. *Malcolm*, 282 U.S. 792 (1930).
[17] 282 U.S. at 109 (emphasis added, footnote omitted).
[18] In dicta, the Supreme Court addressed the issue of uniform treatment of all married persons, "[T]he constitutional requirement of uniformity is not intrinsic, but geographic. [citations omitted] And differences of state law, which may bring a person within or without the category designated by Congress as taxable, may not be read into the Revenue Act to spell out a lack of uniformity." *Id.* at 117–18.
[19] The terms of the contract covered more than earned income. At issue, however, was the proper allocation of "salary and attorney's fees earned by" the husband. *Lucas* v. *Earl*, 281 U.S. 111, 113 (1930).

1913 to 1915, the lowest tax rate was one percent, and it applied to the first $20,000 of taxable income. From 1919 until 1939, the lowest rate ranged from 1.5 to 4 percent and was applicable to the first $4,000 of income. In addition, only a small portion of the population was required to file tax returns because of the relatively high levels of exempt income.[20]

As the tax rates increased, particularly during World War II, the income tax advantage enjoyed by community property spouses increased. Not surprisingly, common law States began to adopt community property laws so that the benefits of income-splitting could be realized by their married residents.[21]

1948–1969

The debate on the taxation of married persons culminated with the enactment of the Revenue Act of 1948. Under the 1948 Act, married couples who filed jointly were in effect taxed as two single persons each reporting one-half the couple's aggregate income. This was achieved by taking half of the taxable income shown on the joint return, determining the tax thereon, and multiplying the result by two. The splitting of all taxable income between a husband and wife was available for all married persons filing jointly. In effect, all married couples were given the benefit which previously had been restricted to community property States.

The Finance Committee Report summarized the intended effects of the income-splitting provisions as follows: [22]

> Adoption of these income-splitting provisions will produce substantial geographical equalization in the impact of the tax on individual incomes. The impetuous enactment of community property legislation by States that have long used the common-law will be forestalled. The incentive for married couples in common law States to attempt the reduction of their taxes by the division of their income through such devices as trusts, joint tenancies, and family partnerships will be reduced materially. Administrative difficulties stemming from the use of such devices will be diminished, and there will be less need for meticulous legislation on the income-tax treatment of trusts and family partnerships. In effect, these amendments represent the adoption of a new national system

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[20] The pre-World War II portion of the civilian labor force filing Federal income tax returns was as follows:

Year:	*Total Federal income tax returns as percentage of civilian labor force*
1915	0.9
1920	17.6
1925	9.2
1930	7.9
1935	8.9
1940	26.4

Source: *1941 Statistics of Income*, Table 14, p. 208; *Historical Statistics of the U.S.*, Series D 1–10, p. 126.

[21] By 1948, Oregon, Nebraska, Michigan, and Oklahoma had adopted community property laws. Pennsylvania's attempt to adopt community property laws was held unconstitutional by that State's highest court.

[22] S. Rep. No. 1013, 80th Cong., 2d Sess. 25 (1948).

for ascertaining Federal income tax liability. The adoption of these amendments will extend substantial benefits to residents of both community-property and common-law States.

The 1948 Act was successful in stopping the adoption of community property laws by the common law States. In fact, Nebraska, Michigan, Oklahoma, and Oregon repealed their recently adopted community property laws. To this day, however, community property laws are in effect in Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington.

The 1948 Act in effect created two rates of income taxation, one applicable to married couples filing jointly and one applicable to all other individual taxpayers. As a result of income-splitting, one-earner married couples paid a much smaller tax than a single taxpayer with the same amount of taxable income.

In 1951, a third set of tax rates was enacted for "heads of households," single taxpayers who maintain households for certain relatives. The new rates applicable to heads of households were calculated to give heads of households approximately one-half of the benefits of income-splitting accorded married couples.

The head of household provisions were extended in the Internal Revenue Code of 1954 to include taxpayers who met certain support requirements with respect to their mother or father, even though the parents did not live in the taxpayer's house. The 1954 Code also extended the full income-splitting benefits enjoyed by married couples to a surviving spouse for 2 years after the death of the other spouse.[23]

1969–present

The last major revision in the comparative income tax treatment of married and single individuals occurred in 1969. Since the enactment of income splitting for married couples in 1948, single persons generally had paid significantly higher taxes than married couples at the same income levels. For example, in 1969, at some income levels a single person's income tax liability was as much as 42.1 percent higher than the income tax liability of a married couple filing a joint return with the same amount of taxable income. In 1969, Congress concluded that, while some difference between the rate of tax paid by single persons and married couples filing jointly was appropriate to reflect the additional living expenses of married taxpayers, the then current differential of as much as 42 percent could not be justified on that basis.

Accordingly, the Tax Reform Act of 1969 included a new rate schedule for single persons effective in 1971. The new rate schedule was designed to impose on middle-income single persons tax liabilities no more than 20 percent above those for married couples.

Another new rate schedule, halfway between the new rate schedule for single persons and the rate schedule for married couples, was en-

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[23] A "surviving spouse" was defined as a taxpayer whose spouse died during either of the two taxable years preceding the year for which the return was filed and who maintained as his or her home a household constituting the principal place of abode of a dependent who was a child or stepchild of the taxpayer and with respect to whom the taxpayer was entitled to a dependency exemption. Under the 1954 Code, the taxpayer was not a surviving spouse if he or she had remarried before the close of the taxable year.

acted in 1969 for heads-of-households. The former rate schedule for single persons was retained for married persons filing separate returns because, if each spouse were permitted to use the new tax rate schedule for single persons, many couples, especially those in community property States, could arrange their affairs and income in such a way that their combined tax would be less than that on a joint return.

With the new rate schedule for single persons, many married couples filing a joint return paid more tax than two single persons with the same total income. This was a necessary result of changing the income-splitting relationship between single and joint returns. At the time, the marriage penalty was justified on the grounds that, although a married couple has greater living expenses than a single person and hence should pay less tax, the couple's living expenses are likely to be less than those of two single persons and, therefore, the couple's tax should be higher than that of two single persons.

In recent years, the marriage penalty has led some happily married couples to divorce at the end of the taxable year, file separate returns, and remarry. If the couple intends to remarry at the time of the divorce, the Internal Revenue Service will not recognize the divorce for income tax purposes because it is a "sham transaction." [24] Two taxpayers have challenged the Internal Revenue Service's position in cases currently before the United States Tax Court.[25]

Personal exemption

Prior to 1948, married couples were allowed only one personal exemption, even though they filed separate returns, and they were required to divide this exemption between them. Between 1913 and 1917, the exemption for a married couple was less than twice that of a single person, and between 1921 and 1941 it was more than twice the single person's exemption. In these years, the exemption led to a marriage tax penalty or bonus even though married persons did not generally file joint returns. An exemption for dependents was first allowed in 1917.

Standard deduction

The standard deduction, as first enacted in 1944, equaled 10 percent of a taxpayer's adjusted gross income, but the maximum deduction allowable was $500. In 1948, the maximum deduction was increased to $1,000 for all taxpayers, except married persons filing separately. The minimum standard deduction (low income allowance), introduced in 1964, equaled $200 plus $100 for each exemption claimed, up to a maximum of $500 for married persons filing separately and $1,000 for all other taxpayers.

The Tax Reform Act of 1969 amended both the minimum and maximum standard deduction provisions. The new low income allowance was set at $1,000. The regular standard deduction was fixed at 15 percent of adjusted gross income, not to exceed a maximum deduction of $2,000. As in the past, married persons filing separately were entitled to one-half the normal minimum and maximum amounts. The

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[24] *E.g.*, Rev. Rul. 76–255, 1976–2 C.B. 40.

[25] *David Boyter* v. *Commissioner*, No. 11445–77 (T.C., filed Nov. 16, 1977); *Angela Boyter* v. *Commissioner*, No. 11446–77 (T.C., filed Nov. 16, 1977).

use of the same minimum and maximum standard deductions for single and joint returns gave rise to its own marriage penalty. Marriage could, for example, reduce the allowable standard deduction by as much as $2,000.

In the Tax Reduction Act of 1975, Congress increased the standard deduction to 16 percent of income. Also, for the first time it enacted different minimum and maximum standard deductions for single and joint returns. For single returns, the minimum was increased to $1,600 and the maximum to $2,300; and those amounts were set $300 higher for joint returns. (The minimum and maximum standard deductions for separate returns were set at one-half the levels for joint returns.) This differentiation was intended specifically to reduce the marriage penalty, which otherwise would have been increased by the increase in the minimum or maximum standard deduction. In the Revenue Adjustment Act of 1975, effective for 1976, the minimum and maximum standard deductions were increased by $100 for single returns and $200 for joint returns.

In the Tax Reduction and Simplification Act of 1977, the Congress replaced the standard deduction with a flat amount referred to as the "zero bracket amount." The zero bracket amount is both a tax bracket with a zero rate and a floor under allowable itemized deductions. With a few exceptions, it has the same impact as the standard deduction. In 1977, the "ZEBRA" was set at $2,200 for single persons and heads of households and $3,200 for married couples filing jointly. Congress concluded that this reduction in the maximum standard deduction for single persons from $2,400 to $2,200 was justified by the need to reduce the marriage penalty. The Revenue Act of 1978 increased the zero bracket amount by $100 for single persons and $200 for married couples filing jointly to its present level of $2,300 for single returns and $3,400 for joint returns.

Child care deduction and credit

A deduction for child care expenses was first allowed under the 1954 Code. The new deduction was limited to expenses, up to $600, paid by women or widowers for the purpose of permitting the taxpayer to be gainfully employed. To obtain the deduction, a married woman had to file a joint return and not use the standard deduction. Also, if a couple's adjusted gross income exceeded $4,500, the $600 limitation was reduced by the amount of their adjusted gross income in excess of $4,500.

The child care deduction was modified in 1964, 1971, and 1975. The 1971 amendments included an extension of the provision to household expenses.

In 1976, the itemized deduction was replaced with a nonrefundable tax credit equal to 20 percent of the expenses incurred (up to a maximum of $2,000 for one dependent and $4,000 for two or more dependents) for the care of a child under age 15 or for an incapacitated dependent or spouse, in order to enable the taxpayer to work. The income limit, beyond which the deduction was phased out, was eliminated.

IV. ISSUES

Marriage neutrality versus equal taxation of couples with equal incomes

Any system of taxing married couples requires making a choice among three different ideas of tax equity. One principle is that the tax system should be "marriage neutral"; that is, the tax burden of a married couple should be exactly equal to the combined tax burden of two single persons one of whom has the same income as the husband and the other of whom has the same income as the wife. A second principle of equity is that, because married couples frequently consume as a unit, couples with the same income should pay the same amount of tax regardless of how the income is divided between them. (This second concept of equity could apply equally well to other tax units which may consume jointly, such as the extended family or the household, defined as all people living together under one roof.) A third concept of equity is that the tax should be progressive; that is, as income rises, the tax burden should rise as a percentage of income.

Unhappily, these three concepts of equity are mutually inconsistent. A tax system can generally have any two of them, but not all three.[1] The current tax system specifies the married couple as the tax unit so that couples with the same income pay the same tax, but it thereby foregoes marriage neutrality. A system of mandatory separate filing for married couples would sacrifice the concept of "equal taxation of couples with equal incomes" for the principle of "marriage neutrality" unless it were to forego progressivity. It should be noted, however, that there is an exception to this rule if refundable credits are permissible. A system with a flat tax rate and a per taxpayer refundable credit

[1] The logical inconsistency can be shown mathematically as follows: Consider four individuals, A, B, C and D. Assume that A and B have equal incomes, C has an income equal to the combined incomes of A and B, and D has no income. Let T(A), T(B), and T(C) be the tax burdens of the three individuals with income. If the tax system is not proportional,

$$T(C) \neq T(A)+T(B). \qquad (1)$$

Now assume A and B marry each other, as do C and D, and let T(AB) and T(CD) be the tax burdens of the married couples. The principle that families with the same income should pay the same tax requires that

$$T(AB)=T(CD), \qquad (2)$$

and marriage neutrality requires both that

$$T(A)+T(B)=T(AB) \qquad (3)$$

and that

$$T(CD)=T(C). \qquad (4)$$

Substituting (3) and (4) into (2) yields

$$T(A)+T(B)=T(C)$$

This, however, contradicts equation (1), indicating that equations (2) and (3) can only both be true in a proportional tax system.

would have marriage neutrality, equal taxation of couples with equal incomes and some limited progressively.

There is no right or wrong answer to the question of whether "equal taxation of couples with equal incomes" is a better principle than "marriage neutrality." (This discussion assumes that the dilemma cannot be resolved by moving to a proportional or flat-rate tax system.)

Those who hold "marriage neutrality" to be more important argue that tax policy discourages marriage and encourages "living in sin," lowering society's standard of morality. Also, they argue that it is simply unfair to impose a "marriage tax" even if the tax does not actually deter anyone from marrying.

Those who favor the principle of equal taxation of couples with equal incomes argue that, as long as most couples pool their income and consume as a unit, two couples with $20,000 of income are equally well off regardless of whether their income is divided $10,000–$10,000 or $15,000–$5,000. Thus, it is argued, they should pay the same tax, as they do under present law. A marriage-neutral system with progressive rates would involve a larger combined tax on the couple with the unequal income division.

An advocate of marriage neutrality could respond that the relevant comparison is not between a two-earner couple where the spouses have equal incomes and a two-earner couple with an unequal income division, but rather between a two-earner couple and a one-earner couple with the same total income. Here, the case for equal taxation of the two couples may be weaker, because the non-earner in the one-earner couple benefits from more time which may be used for leisure, unpaid work inside the home, child care, and other activities. It could, of course, be argued in response that the "leisure" of the non-earner may in fact consist of necessary jobhunting or child care, in which case the one-earner couple may not have more ability to pay income tax than the two-earner couple with the same income.

The attractiveness of the principle of equal taxation of couples with equal incomes depends on the extent to which married couples actually pool their incomes and single persons do not. In a society where many marriages last no longer than the typical single person's romance, or where married couples frequently live apart and single persons frequently live together, marriage neutrality would clearly be the better principle. However, as long as differences in lifestyle between married couples and single persons are pronounced, the issue is less clear.

Census data show that 1.3 million households in 1979 were shared by two unrelated adults of the opposite sex.[2] Three-fourths of these "unmarried couples" had no children. Half had never been married before, nearly a third had been divorced, and the remainder were either widowed or married to someone else. The number of "unmarried couples" has grown 157 percent since 1970. The Census report, however, concludes:

> Despite the spectacular nature of the recent increase in this unmarried-couple living arrangement, the 2.7 million "partners"

[2] Bureau of the Census, *Current Population Reports,* Series p–20, No. 349, February 1980. No count was taken of households shared by two unrelated adults of the same sex.

in these 1.3 million households represent a very small portion of all persons in "couple" situations. In 1979, there were an estimated 96.5 million men and women who were married and living with a spouse. Thus, the partners in unmarried couples represented only about 3 percent of all persons among couples living together in 1979.

The continuing predominance of marriage among couples suggests that "equal taxation of married couples with equal incomes" is still an important concept for many people.

The actual size of the marriage bonus or penalty depends on the combined effect of all the provisions of the tax law which treat the married couple as something other than two distinct individuals. However, the most important factors are the tax rate schedules and the zero bracket amount. Table 1 shows the size of the marriage bonus or penalty created by these provisions for couples with various incomes and income splits between spouses under the 1979 tax law. For a couple with income of $30,000 per year, there is a marriage bonus of $1,929 when one spouse receives all the income and a marriage penalty of $903 when the income is split 50–50. Generally, there is a marriage bonus when income is split less evenly than 80–20 and a marriage penalty for more even income splits.

Table 2 shows the size of the marriage bonus or penalty as a percentage of after-tax income for the same income levels and income splits as table 1. This is a better measure of how the lack of marriage neutrality affects relative living standards. At a maximum, the marriage penalty is 7.4 percent of after-tax income. The largest marriage bonus is 9.2 percent. The region of the table in which the marriage penalty exceeds 5 percent of after-tax income is relatively small: couples with $40,000 and income division more even than 60–40, couples with $50,000 and income division more even than 65–35, and couples with $100,000 and income division more even than 75–25. A small, but rapidly growing, fraction of taxpayers is in those categories, although it tends to be an especially vocal group.

The head-of-household rate schedule for single persons with dependents causes a "divorce bonus" for couples with children which is greater than the marriage penalties shown in tables 1 and 2. Table 3 shows the divorce bonus for a couple with one child when one of the persons is able to file as a head of household after the divorce. The divorce bonus for a family of three with income of $30,000 split 50–50 between the spouses is $932 or 3.8 percent of their after-tax income. The maximum divorce bonus is 8.8 percent. (For a couple with two dependents, the divorce bonus is potentially larger because each spouse can maintain a household for one of the children, and both could qualify as heads of households.)

The Census report shows that the number of households maintained by divorced men and women with children under 18 has grown by 33 percent for men and by 41 percent for women since 1970. In 1979 men headed 1.0 million such households and women 10.5 million.

TABLE 1.—EFFECT OF MARRIAGE ON TAX LIABILITY AT SELECTED INCOME LEVELS AND EARNINGS SPLITS BETWEEN HUSBAND AND WIFE [1]

Total family income	Share of lesser-earning spouse 0	5	10	15	20	25	30	35	40	45	50
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
$5,000	−250	−210	−170	−133	−98	−63	−28	0	0	0	0
$7,000	−378	−315	−252	−189	−126	−66	−10	46	98	147	168
$10,000	−475	−370	−275	−180	−85	10	100	162	182	200	202
$15,000	−710	−515	−328	−148	32	132	183	220	236	243	251
$20,000	−1,092	−760	−460	−160	42	150	238	300	355	381	391
$25,000	−1,505	−1,055	−630	−268	−30	160	310	447	535	594	611
$30,000	−1,929	−1,334	−749	−334	−26	214	439	644	785	875	903
$40,000	−2,801	−1,821	−939	−338	177	667	1,031	1,329	1,564	1,644	1,692
$50,000	−3,344	−2,094	−1,094	−286	454	1,133	1,731	2,121	2,439	2,574	2,674
$100,000	−3,464	−1,214	359	1,691	2,699	3,474	4,014	4,314	4,369	4,394	4,394

[1] Assumes that taxpayers have no dependents and do not itemize deductions. Marriage penalties would be smaller, and marriage bonuses larger, for itemizers. Marriage penalties are positive in the table, marriage bonuses are negative.

TABLE 2.—EFFECT OF MARRIAGE ON TAX LIABILITY AS A PERCENTAGE OF AFTER-TAX-INCOME AT SELECTED INCOME LEVELS AND EARNINGS SPLITS BETWEEN HUSBAND AND WIFE BEFORE MARRIAGE [1]

	Share of lesser-earning spouse										
	0	5	10	15	20	25	30	35	40	45	50
Total family income	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
$5,000	−5.0	−4.2	−3.4	−2.7	−2.0	−1.3	−0.6	0.0	0.0	0.0	0.0
$7,000	−5.6	−4.6	−3.7	−2.8	−1.8	−1.0	−0.1	0.7	1.4	2.2	2.5
$10,000	−5.1	−4.0	−3.0	−1.9	−0.9	0.1	1.1	1.7	2.0	2.2	2.2
$15,000	−5.3	−3.8	−2.4	−1.1	0.2	1.0	1.4	1.6	1.8	1.8	1.9
$20,000	−6.3	−4.4	−2.7	−0.9	0.2	0.9	1.4	1.7	2.0	2.2	2.3
$25,000	−7.2	−5.0	−3.0	−1.3	−0.1	0.8	1.5	2.1	2.6	2.8	2.9
$30,000	−7.9	−5.5	−3.1	−1.4	−0.1	0.9	1.8	2.6	3.2	3.6	3.7
$40,000	−9.1	−5.9	−3.1	−1.1	0.6	2.2	3.4	4.3	5.1	5.4	5.5
$50,000	−9.2	−5.8	−3.0	−0.8	1.2	3.1	4.8	5.8	6.7	7.1	7.4
$100,000	−5.6	−2.0	0.6	2.8	4.4	5.7	6.5	7.0	7.1	7.2	7.2

[1] Assumes no itemized deductions and no dependents. Marriage penalties would be smaller, and marriage bonuses larger, for itemizers. Marriage penalties are positive in the table, marriage bonuses are negative.

TABLE 3.—EFFECT OF DIVORCE ON TAX LIABILITY AT SELECTED INCOME LEVELS AND EARNINGS SPLITS BETWEEN HUSBAND AND WIFE [1]

	Share of lesser-earning spouse										
	0	5	10	15	20	25	30	35	40	45	50
Total family income	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
$5,000	−250	−210	−170	−133	−98	−263	−28	0	0	0	0
$7,000	−518	−455	−392	−329	−266	−106	−150	−94	−42	7	56
$10,000	−643	−538	−443	−348	−253	−58	−68	22	112	174	186
$15,000	−920	−725	−538	−358	−178	−15	115	167	210	240	763
$20,000	−1, 332	−1, 000	−700	−400	−100	62	182	272	352	398	428
$25,000	−1, 785	−1, 335	−910	−485	−158	74	252	422	532	607	632
$30,000	−2, 249	−1, 654	−1, 069	−512	−162	116	376	616	756	876	932
$40,000	−3, 231	−2, 251	−1, 271	−584	−16	514	892	1, 228	1, 503	1, 683	1, 843
$50,000	−3, 834	−2, 584	−1, 432	−554	241	944	1, 590	2, 080	2, 530	2, 750	2, 950
$100,000	−3, 964	−1, 562	136	1, 540	2, 780	3, 740	4, 465	4, 913	5, 157	5, 357	5, 425

[1] Assumes one dependent claimed by the spouse with the smaller amount of earnings and assumes no itemized deductions. Divorce bonuses would be smaller, and divorce penalties larger, for itemizers. Divorce penalties are positive, divorce bonuses are negative. The divorce bonus is the difference between the tax liability on one joint return and the combined tax liability on one single return and one head-of-household return.

Distribution of tax burden by type of tax unit

A second issue of tax equity is how much of the tax burden should be borne by the different types of tax units: single persons without dependents, single heads of households, one-earner married couples and two-earner married couples. Each of the different proposals for taxing married couples and single persons has an impact on this distribution.

As discussed above in the section on present law, the actual relationship between the tax burden of a single person, a head of household and a married couple with the same income depends on the interaction of many provisions of the law, which embody widely varying ideas of how the various types of tax units ought to be treated. The provisions which are most responsible for distinctions between different types of tax units at a given income level are the tax rate schedules and the zero bracket amount.

Table 4 compares the tax paid by a typical married couple with no dependents to that of a single person at various income levels, along with the percentage difference in the two tax burdens. Table 4 also shows the percentage difference in after-tax income between a single person and a married couple at each income level. At a given level of before-tax income, the married couple retains between 5 and 10 percent more after-tax income than a single person. Whether these differences are more or less than enough to compensate for the fact that two cannot live as cheaply as one is a subjective matter.

TABLE 4.—COMPARISON OF INCOME TAX LIABILITY OF A MARRIED COUPLE AND A SINGLE PERSON

[Assumes no itemized deductions]

Income	Married couple, no dependents (joint return) (1)	Single person (2)	Excess tax of single over joint return: Amount (3)	Excess tax of single over joint return: Percent of joint return's tax (4)	Excess tax of single over joint return: Percent of joint return's after-tax income (5)
$5,000	$0	$250	$250	---	5.0
$7,500	294	692	398	135	5.5
$10,000	702	1,177	475	68	5.1
$12,500	1,152	1,723	571	50	5.0
$15,000	1,635	2,345	710	43	5.3
$17,500	2,160	3,055	895	41	5.8
$20,000	2,745	3,837	1,092	40	6.3
$25,000	4,057	5,562	1,505	37	7.2
$30,000	5,593	7,522	1,929	34	7.9
$40,000	9,366	12,167	2,801	30	9.1
$50,000	13,798	17,517	3,719	27	10.3
$100,000	[1] 38,678	[1] 42,142	3,464	9	5.6

[1] Reflects the 50-percent maximum tax.

Table 5 makes the same comparisons between a single head of household with one dependent and a single person without dependents. These tax differences range from 2.7 to 5.5 percent of after-tax income, which raises the question of whether these differences are large enough to warrant the complexity of the head-of-household rate schedule. (If that rate schedule were abolished, some tax difference between a head of household and a single person would persist because the head of household would still generally be eligible for additional personal exemptions for dependents.)

TABLE 5.—COMPARISON OF INCOME TAX LIABILITY OF A HEAD OF HOUSEHOLD WITH 1 DEPENDENT AND A SINGLE PERSON

[Assumes no itemized deductions]

Income	Head of household with 1 dependent (1)	Single person (2)	Excess tax of single person over head of household: Amount (3)	Percent of head of household's tax (4)	Percent of head of household's after-tax income (5)
$5,000	$98	$250	$152	155	3.2
$7,500	470	692	222	47	3.2
$10,000	900	1,177	277	31	3.0
$12,500	1,422	1,723	301	21	2.7
$15,000	1,996	2,345	349	17	2.7
$17,500	2,606	3,055	449	17	3.0
$20,000	3,256	3,837	581	18	3.5
$25,000	4,796	5,562	766	16	3.8
$30,000	6,571	7,522	951	14	4.1
$40,000	10,879	12,167	1,288	12	4.4
$50,000	15,611	17,517	1,906	12	5.5
$100,000	[1] 40,611	[1] 42,142	1,531	4	2.6

[1] Reflects the 50-percent maximum tax.

Table 6 shows how the overall income tax burden (including the negative tax liability resulting from the earned income credit) is distributed between single persons, single heads of households, one-earner married couples and two-earner couples. These estimates come from the Treasury Tax Model, extrapolated to 1979 income levels. Single persons pay 21.6 percent of the total income tax burden. Married couples pay 75 percent, divided almost equally between one- and two-earner couples. Heads of households pay 3.4 percent.

Proposals for mandatory or optional separate filing by married couples using the current single person's rate schedule would provide tax cuts of $7 to $9 billion, largely to two-earner couples. This would

TABLE 6.—PRESENT LAW FEDERAL INDIVIDUAL INCOME TAX LIABILITY—1979 INCOME LEVELS

[Dollars in millions]

Expanded income class (thousands)	Single	Joint: 1 earner	Joint: 2 earners	Head of household	Total
Below $5	$484	−$220	−$186	−$327	−$249
$5 to $10	6, 171	117	127	355	6, 770
$10 to $15	9, 753	2, 847	3, 283	1, 512	17, 395
$15 to $20	9, 081	5, 128	8, 254	1, 771	24, 234
$20 to $30	10, 041	13, 401	27, 286	1, 835	52, 562
$30 to $50	4, 502	20, 241	25, 280	901	50, 923
$50 to $100	2, 637	18, 339	9, 589	435	31, 001
$100 to $200	1, 250	9, 169	3, 548	272	14, 240
$200 and over	2, 041	10, 331	2, 890	401	15, 663
Total	$45, 960	$79, 353	$80, 070	$7, 155	$212, 539
Percent of total	21. 6	37. 3	37. 7	3. 4	100. 0

be approximately a 10-percent reduction in their tax burden. Proposals for deductions or credits for two-earner couples, discussed below, would reduce taxes of two-earner couples by anywhere from $3½ to $12 billion, or by anywhere from 5 to 15 percent. Mandatory separate filing would also involve tax increases of between $22 and $25 billion, most of which would fall on one-earner couples. This would be a significant increase in the tax burden on that group.

Effect on work incentives

From the standpoint of economic efficiency, it generally is preferable to impose relatively low tax rates on people or activities for which economic decisions are relatively sensitive to the tax rate. Such a policy tends to minimize the distortions caused by the tax system. The relevant tax rate is not the *average* tax rate, the overall tax burden as a percentage of income, but rather the *marginal* tax rate, the rate applicable to the next dollar of income.

The tax treatment of the family has a significant impact on the marginal tax rates which are applied to earned income. The present system taxes the married couple as one unit, thereby stacking one spouse's income on top of the other's. Thus, for a couple in which the husband already earns $20,000 per year and the wife is deciding whether to take a $20,000 job, the relevant tax rates which affect the wife's decision are not the rates applying to the first $20,000 of income, but rather the rates applying to income between $20,001 and $40,000. With progressive tax rates, of course, the rates applying between $20,001 and $40,000 will be higher than those applying below $20,000. Similarly, if both spouses earn $20,000 and one is considering earning $5,000 by working overtime, the relevant tax rates would be those applying to income between $40,001 and $45,000, not the lower rates applying to income between $20,001 and $25,000.

Table 7 shows some illustrative marginal tax rates which apply under present law, including both the individual income tax and the employee's share of the social security tax (6.13 percent of the first $25,900 of earnings). These marginal rates are the rates applicable to the next dollar of income, assuming that the specified amount of earnings has already been received either by one spouse (in the one-earner couple) or by each spouse (in the two-earner couple). Furthermore, any effect on work incentives resulting from State and local income taxes would have to be added to give a complete picture of tax disincentives, along with sales taxes on consumer goods purchased with the additional wages which are to be earned and the employer's part of the social security tax to the extent it is passed through as lower real wages.

TABLE 7.—COMBINED MARGINAL INCOME AND SOCIAL SECURITY TAX RATES

[In percent]

	Earnings per working spouse (in thousands)				
	$10	$15	$20	$30	$40
Present law:					
Single person	27	32	40	44	49
1-earner couple	24	27	30	32	43
2-earner couple	30	38	49	49	[1] 50
Proposals for 2-earner couples:					
5-percent credit for second earner	25	33	44	44	[1] 45
10-percent deduction for second earner	28	35	45	44	[1] 45

[1] Reflects the 50-percent maximum tax on earned income. The marginal tax rates are the combined income and payroll tax burden on a taxpayer assuming that a certain amount of income has already been earned during the taxable year. For example, in the case where each earner earns $10,000, this means the tax rate applicable to the $10,001st dollar of income for a single person, for a married person whose spouse has no earnings and for a married person whose spouse earns $10,000. The table does not take account of additional deductions or tax credits which may result from use of additional earned income.

For two-earner couples, marginal income and payroll tax rates reach quite high levels at moderate levels of earnings: 38 percent when each spouse earns $15,000 and 49 percent when each spouse earns $20,000.

Taxing married couples as two single individuals would give everyone the marginal tax rates applicable to single persons. This would mean a reduction in marginal tax rates for two-earner couples but, unless there were a sizable income tax cut, it would mean an increase in marginal tax rates for one-earner couples. Optional separate filing as two single persons would leave one-earner couples where they are today and would give two-earner couples the marginal tax rates applying to single persons. A credit of 5 percent of the earnings of the lesser-earning spouse would reduce the marginal tax rate for the second-earner by 5 percentage points. A deduction of 10 percent of the earnings of the lesser-earning spouse would reduce the marginal tax rate for the second earner by 10 percent of the applicable income tax rate. The marginal rates which would result from these proposals are shown in table 7. Of course, to the extent that any change in the tax treatment of the family gained or lost revenue, there might have to be compensatory tax changes that would themselves affect marginal tax rates.

Statistical studies are virtually unanimous in the conclusion that the work decisions of married women are far more sensitive to tax considerations than are those of single persons or married men.[1] If this is correct, reducing the marginal tax rates applicable to working wives would increase overall labor supply even if it were necessary to increase taxes on everyone else to make up lost revenue.[2]

An analysis of the response of various demographic groups to changes in tax rates was conducted by Dr. Michael K. Evans under a grant from the Senate Finance Committee. Evans concluded that a change in tax rates on earned income which increased after-tax earnings by 10 percent would increase hours worked by 0.3 percent for men age 25–54 and by 2 percent for women age 25–54. These results confirm the expectations that the work effort of married women is more responsive to tax reductions than that of married men. (Evans' study, however, is based on data for all men and all women, not just married persons.)

Any reduction in tax-induced economic distortions generally is considered desirable. Moreover, there appears to be increasing concern over distortions created by the tax system on the supply side of the economy. If someone is discouraged from additional work by the applicable marginal tax rate on earned income, there is an efficiency loss to the whole economy. (The efficiency loss, however, does not equal the foregone salary; rather it equals the difference between the foregone salary and the value the person puts on his or her leisure time.) Because of complex interactions between the supply of and demand for labor, it is difficult to determine who in the economy will bear this loss.

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[1] See, for example, H. S. Rosen, "Taxes in a Labor Supply Model with Joint Wage-Hours Determinations," *Econometrica*, July 1976. Rosen found that a 10-percent increase in after-tax earnings will increase the hours worked by married women by 16 percent, which is a much stronger response than is likely to occur for single persons and married men.

[2] There are limits, however, to the extent to which such a shift in tax burdens to one-earner couples and single persons from two-earner couples can continue to increase efficiency. The inefficiency caused by a tax will not tend to increase proportionately with the tax rate but rather in proportion to the square of the tax rate. Thus, as long as single persons and primary earners are somewhat responsive to changes in tax rates, there will be a point after which further tax increases on them will create a larger inefficiency than would equivalent tax increases on more tax-sensitive second earners.

In the case of two-earner couples, however, there may be countervailing considerations. If it is the case that society as a whole benefits more from having unpaid services performed by persons not in the labor force—care of children, elderly or infirm individuals, volunteer and civil activities, performance of domestic and household services, and pursuit of cultural, religious and other activities—than from having a high proportion of married persons involved in the work force, some or all of the efficiency gains from reducing the tax disincentives to work outside the home will be offset by efficiency costs to society in terms of these other alternative activities. Little, if any, conclusive empirical evidence exists to measure these tradeoffs.

Head-of-household rates

Special tax rates, which are approximately midway between the rate schedules applicable to single persons and to married couples filing jointly, apply to individuals who are heads of households. In order to qualify for these rates, an individual must be unmarried and generally must maintain a household for himself or herself and one or more children or dependent relatives. (The requirements are discussed in more detail under "Present law.") The head-of-household rate schedule was established because of Congress' concern that unmarried taxpayers who are required to maintain a household for other individuals have financial responsibilities similar to those of married couples.

The existence of the head-of-household rate schedule, however, adds to tax complexity and leads to some anomalies in the effect that a single person's acquisition of a first dependent has on tax liability compared to the effect of other dependents. As is shown in table 5, the head of household rate schedule and the additional dependency exemption together cause relatively small percentage increases in the after-tax income of a head of household.

For a single person, the acquisition of a dependent for whom the taxpayer maintains a household makes him or her eligible for the head-of-household rate schedule and for an additional $1,000 personal exemption. For a married couple, however, the acquisition of a dependent leads only to an additional $1,000 exemption. (In addition, the acquisition of a dependent may qualify a low-income married couple or single person for the earned income credit.) Thus, a single person generally receives a much larger tax reduction for acquiring the first dependent than does a married couple, and the first dependent of a single person is worth considerably more than subsequent dependents. As a percent of income, the tax benefit for a single person's first dependent rises with income, while that for a married couple's dependents and a single person's subsequent dependents declines with income.

These anomalies could be corrected by eliminating the head-of-household rate schedule and replacing it with a larger personal exemption, perhaps one that increases with income. Under this system, a dependent would give the same tax benefit to both married couples and single persons, and (except for the earned income credit) the first dependent would not be more valuable to a single taxpayer than subsequent dependents.

For married couples with children, who subsequently get divorced, use of the head-of-household rates can result in a divorce bonus.

Consider, for example, a couple with two children and a combined adjusted gross income of $40,000. If that couple filed a joint return (and had no itemized deductions), it would pay a tax of $8,506. If the couple got divorced, each had $20,000 of adjusted gross income, and each kept custody of one child, each individual would pay $3,256 as a single head of household, a combined tax of $6,512. Thus, divorce would cause a total tax saving of $1,994 and an increase in after-tax income of approximately 6 percent.

The complexity of the head-of-household rate schedule is mostly a result of taxpayers' having to decide whether they are eligible for it. The definition of a dependent that makes a taxpayer eligible for head-of-household status is different from the definition of a dependent that makes one eligible for the dependency exemption, and it is hard to determine exactly what is meant by "maintaining a household." Apparently some single persons without dependents who own their own homes mistakenly claim head-of-household status on their returns.

The head-of-household rate schedule was originally enacted in response to concern over the burdens on single persons with dependents, a concern which is no less valid now than in 1951. Presumably, then, repeal of the head-of-household rate schedule would have to be accompanied by some other response to this problem, such as a larger personal exemption for dependents or an expanded earned income credit.

Technical issues related to separate filing

Under present law, married persons may file separate returns. In almost all cases, however, a married couple will pay less tax, in total, if the husband and wife file a joint return. Consequently, few controversies have arisen over the proper allocation of income, deductions, exemptions, and credits between a husband and wife. For the same reason, there has been little controversy over the policy of denying some tax benefits to married persons who file separate returns. If the comparative income tax treatment of married and single taxpayers were modified in a way that encouraged the filing of separate returns by married persons, many issues dormant since 1948 would assume new significance. This section identifies some of the technical issues that would arise more frequently if married couples are encouraged to file separately.

Income issues

The primary technical issue, which led to the enactment of the income splitting provision in the 1948 Act, is the allocation of income between a husband and wife. There are at least three ways personal service or earned income (for example, wages and salary) could be allocated for income tax purposes between a husband and wife. First, a couple's combined earned income could be split in equal shares (as is presently the law for spouses in States with community property laws that consider earned income to be community property). Second, earned income could be allocated to the spouse who performed the services that produced the income (as is presently the law in common law States). The third alternative is present law, which applies the first alternative in community property States and the second alternative in common law States. Many proposals to encourage or mandate separate filing adopt the second alternative and disregard community property laws in order to avoid the problems experienced before 1948.

Income from assets (for example, dividends on stock and rents from real property) also would have to be allocated between a husband and wife. There are two basic approaches: an exact rule which treats the couple as two single individuals or a rule that arbitrarily allocates income. Exact rules could include allocation of investment income to the person whose name appears on the deed or other certificate of ownership, to the owner of the asset determined under State property law, or to the owner of the income determined under State property law. Present law generally taxes income to the owner of an asset, and ownership is usually determined under State law. Arbitrary allocation rules could include allocation of investment income in equal shares to the husband and wife, allocation entirely to the husband or wife (perhaps to the spouse with the greater amount of earned income) or allocation in proportion to the earned income of the husband and wife.

The application of the present ownership rule is often difficult because title to property may be held by more than one person (for example, joint tenants), and State law may create ownership interests (for example, a spouse's vested interest under community property laws) in certain property and income. These complexities, encountered today by a minority of married taxpayers, would be faced by married taxpayers and the Internal Revenue Service with increasing frequency if more married persons filed separately.

Any of the arbitrary rules would mean that one spouse would be reporting and paying tax on income actually owned by the other spouse. This could give rise to the marriage bonuses or penalties the abolition of which is the main justification for separate filing. For example, consider two single persons with equal earnings but with one person having investment income. If they married and if the law required separate filing with most of the arbitrary allocation rules discussed above, the couple would pay less tax than two equivalent single persons because the allocation rule would give the couple partial or complete income splitting on the investment income.

An exact rule allocating investment income to the spouse who owns the property or the income would give married couples the opportunity to achieve some or all of the benefit of income splitting by transferring property to the spouse with the lesser amount of earned income, although it could be argued that this opportunity is now available to any taxpayer who is willing to transfer property to someone other than his or her spouse. (There may be similar opportunities for shifting earned income as a result of one spouse "hiring" another to split their earned income.)

It would be necessary to override State community property laws to some degree to prevent a recurrence of the pre-1948 situation in which community property States provided income-splitting to their citizens while common law States did not. Also, if community property laws are recognized for tax purposes, an estranged spouse may be forced to report income on a separate return which that spouse never receives, a problem which exists under present law and to which H.R.

6247 (sponsored by Rep. Gibbons) is addressed. That bill provides that most types of community income are to be allocated between spouses without regard to community property laws if spouses live apart throughout the year, file separate returns, and do not share income. For earned income, these problems could be solved by allocating the income to the earner even in community property States. However, this would cause an estranged spouse to pay tax on earnings half of which were owned by his or her spouse.

For investment income, the case for overriding community property laws is weaker than for earned income because married residents of common law States can achieve an equal division of investment income by transferring ownership of property between spouses, although these transfers could be subject to gift tax.

Once income is allocated, it is necessary to allocate expenses incurred in the production of that income. Under present law for separate filers, deductions for trade or business expenses are allowable only to the spouse who pays the expenses and only if the expenses are incurred in that spouse's trade or business. For example, neither spouse would be allowed a deduction on a separate return if one spouse pays the salaries of the other spouse's employees. Similarly, expenses incurred in the production of investment income are deductible by the spouse who pays the expense only if that spouse receives the income to which the expense relates. An alternative, more lenient rule, which might be more appropriate in a system that did not try to discourage separate filing, would be to allocate these expenses to the spouse reporting the income to which the expenses relate without regard to which spouse actually paid the expenses.

Personal and dependency exemptions

Under present law for separate returns, each working spouse is entitled to one personal exemption for himself or herself plus additional exemptions, if any, for age or blindness. In addition, each spouse can claim an exemption for each dependent with respect to whom that spouse satisfies the statutory requirements. If neither spouse alone meets the support test, but if both together do, a spouse who provides more than 10 percent of the support can claim the exemption if there is a multiple support agreement. A simpler approach would be to allocate the value of the exemptions 50–50 or in proportion to income.

Itemized deductions

Under present law, taxpayers are entitled to deduct certain expenditures from adjusted gross income in arriving at taxable income. These deductions ("itemized deductions") may be taken by a taxpayer only to the extent that they exceed the taxpayer's applicable zero bracket amount. In general, itemized deductions are allowed for medical and dental expenses, taxes, interest, charitable contributions, casualty and theft losses, and certain miscellaneous expenses. As with income allocation rules, it is possible to have more or less exact allocations or to have arbitrary allocation rules.

Medical expenses

In general, individuals may deduct unreimbursed medical and dental expenses in excess of 3 percent of adjusted gross income, plus one-half of medical insurance premiums (up to $150) without regard to the 3-percent floor. This deduction is allowable with respect to expenses which constitute medical care for the taxpayer, his or her spouse, and dependents.

Determining an individual's medical expense deduction involves a three-step calculation. First, the taxpayer deducts one-half of any medical insurance cost up to a maximum of $150, without regard to the amount of adjusted gross income. Second, the taxpayer must determine the amount of all medicine and drug expenses not compensated for by insurance and determine the amount by which those expenses exceed one percent of adjusted gross income. Third, the taxpayer then must determine the sum of the excess medicine and drug expenses, the remainder of any medical insurance cost not deductible under the first step, and the other medical expenses (such as, physicians' fees and hospital bills) not compensated for by insurance. The allowable medical deduction then is the excess of the total amount of the expenses over 3 percent of adjusted gross income, plus the medical insurance deduction computed under the first step.

Because a percentage of adjusted gross income is a floor under the medical expense deduction, a two-earner couple (where one spouse has unusually large medical expenses) may receive an additional benefit under present law through filing separate returns instead of a joint return. Taking each spouse's income separately would produce a lower floor under deductible medical expenses than would combining the couple's adjusted gross income on a joint return.

When spouses file separate returns under present law, each spouse takes into account the medical expenses paid for by himself or herself for purposes of computing the deduction regardless of the identity of the spouse for whom the expenses were incurred. This same rule could be followed if spouses were allowed to file separately under more beneficial tax rates. There would be a tracing problem arising from having to determine which spouse actually paid or incurred the expense. While this problem already exists where spouses file separate returns under present law, the administrative tracing burden would increase if the enactment of more beneficial tax rates for separate filing by two-earner couples caused more of these couples to file separately. Under present law, single persons cannot deduct medical expenses incurred on behalf of someone else who is not a dependent. Therefore, this rule would not provide complete marriage neutrality.

State and local taxes

State or local income taxes, real property taxes, personal property taxes, and general sales taxes are deductible. Separate filing by spouses would create a burden of determining which spouse made the deductible payments.

State and local income taxes are now deductible by the individual who is charged with and pays those taxes. The manner in which married couples deduct those taxes currently depends upon how the spouses file their State and Federal income tax returns:

(1) If an individual and his or her spouse file separate State and separate Federal returns, then each spouse may deduct on each separate Federal return the amount of State income tax paid by that spouse.

(2) If each spouse files separate State returns but the couple files a joint Federal income tax return, they may deduct on the joint return the sum of the State income taxes paid by each.

(3) If an individual and his or her spouse file a joint State return but file separate Federal returns, then each spouse may deduct part of the State income taxes on his or her separate Federal return. In this situation, the amount deducted by each spouse must be in the same proportion that each spouse's gross income bears to the combined gross income of both spouses. However, in no event may either spouse deduct more than the actual amount of State income taxes paid by each spouse during the year. If an individual and his or her spouse are jointly and individually liable for the full amount of State income tax, each spouse may deduct the actual amount paid by each on his or her own separate Federal return.

It would seem that rules similar to those described above could be followed for the deduction of State and local income taxes in a separate filing system. However, if these rules are thought to be too complex, some arbitrary system could be devised for allocating these deductions.

Real property taxes currently are deductible only by the property owner. If real property taxes are paid by the spouse who owns the property, then they may be deducted on that spouse's separate return or on a joint return. If the spouse who does not own the property pays the tax, the tax is deductible on a joint return but not on a separate return. A system of more widespread separate filing could follow the same rules. Alternatively, rules could be adopted which would not require matching of ownership and payment of tax but would allow the deduction to whichever spouse makes the payment. This could be simpler and more consistent with a policy to encourage separate filing.

Personal property taxes raise the same technical issues as real property taxes, since the allowability of the deduction depends upon who is the property owner.

General sales taxes raise different issues since they are based upon consumption rather than ownership. In a system of separate filing, each spouse could be required to keep records of his or her separate purchases and take separate deductions on that basis (deductible sales taxes on joint purchases could be split evenly). This, however, could prove to be quite burdensome to taxpayers. Instead, each spouse could be permitted to take deductions, as under present law, pursuant to sales tax tables, with the amount of the deduction depending upon each spouse's separate adjusted gross income.

Interest deductions

Interest deductions present problems similar to those with respect to deductions for real property taxes and personal property taxes since, in order for a taxpayer to deduct interest on a debt under present law, the taxpayer must be legally liable for the debt. (That is, a taxpayer cannot take a deduction for interest paid on a debt for which some other person is solely liable.) Either this rule could be retained, or the more lenient rule suggested above for property taxes could be adopted.

The interest deduction is limited in the case of certain "investment interest." (Investment interest generally is interest paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment.) In general, this limitation is $10,000 per year, plus the taxpayer's net investment income. In the case of married couples filing separate returns, the $10,000 limitation is halved. Under a proposal to treat two married persons the same as two single persons, it would be necessary to provide each spouse with a separate limitation equal to $10,000 plus that spouse's separate investment income.

Charitable contributions

Within certain limitations, individuals are entitled to deduct contributions of cash or property to qualified charities. In general, contributions to most charities may not exceed 50 percent of adjusted gross income; contributions of certain capital-gains property may not exceed 30 percent of adjusted gross income; and contributions to certain types of private foundations may not exceed 20 percent of adjusted gross income.

Because the charitable contributions deduction has an adjusted gross income ceiling, working spouses who make large contributions gain under current law by joint filing. This is due to the fact that by combining their incomes by joint filing they are entitled to a higher ceiling for contributions than would be the case if they filed separately. On a joint return, it is not necessary to trace contributions from a particular spouse because total contributions, as well as total income, are combined.

In a separate filing system, it would be necessary for each spouse to keep track of his or her own particular contributions and to deduct no more than that amount against his or her own particular income. This probably would not be too great a problem where each spouse makes contributions out of his or her own income and keeps good records of the contributions. However, in situations where spouses commingle their earnings, or the spouses do not keep adequate records of which spouse made a particular contribution, the administrative problems under present law could be compounded. Moreover, the carryover provisions could cause additional complexities especially during the transition period between joint and separate filing. (In general, charitable contributions which exceed the applicable adjusted gross income limitation may be carried forward for five succeeding taxable years.)

Casualty and theft losses

Individuals are entitled to deduct losses resulting from certain casualties to, or thefts of, property. However, individuals may deduct these losses only to the extent that they are not reimbursed by insurance or otherwise and to the extent that the loss exceeds $100 for each casualty or theft.

Under present law, if two or more individuals who are not spouses suffer losses from the same casualty or theft, the $100 limitation is applied separately to each individual. In the case of a husband and wife who file a joint return, if each suffers a loss from the same casualty or theft, they are treated as one individual in applying the $100 limitation without regard to whether the damaged or stolen property was owned jointly or separately. On the other hand, if they file separate returns, each is subject to a separate $100 limitation. In the case of a husband and wife who own property jointly and who sustain a casualty loss with respect to that property, each is entitled to claim one-half of the loss on a separate return; but, in no event, may either spouse claim the entire loss deduction on a separate return. These rules could be adopted in a system of more widespread separate filing.

Miscellaneous deductions

In addition to the itemized deductions discussed above, taxpayers may be entitled to additional itemized deductions for certain employee expenses (such as, expenses for certain work clothes, employment-related education, union dues, and professional society dues) and for certain expenses incurred in connection with producing income (such as, certain legal and accounting fees and safe deposit box rentals).

In a system of separate filing, these miscellaneous deductions would present the same issues as the business expense deductions discussed above.

Arbitrary allocation rules

Any exact method of allocating itemized deductions between spouses in a way that attempts to treat them as two single persons would be more complex than existing law for joint returns. Furthermore, married persons could use whatever rules are provided to achieve their own income splitting; for example, by having the spouse with the greater amount of adjusted gross income make all of the couple's charitable contributions.

An alternative would be some kind of arbitrary allocation rule for some or all itemized deductions, such as allocating all itemized deductions to the spouse with the lesser adjusted gross income or allocating them in proportion to adjusted gross income. These rules, however, violate the spirit of separate filing and create their own marriage bonuses or penalties because they are different from the rules applicable to single persons. Therefore, they would probably not be considered entirely fair.

Provisions containing income phaseouts

Several provisions of the tax law require that certain benefits be phased out as a taxpayer's income rises above specified levels. Among the provisions in this category are the credit for the elderly, the earned income credit, and the disability income exclusion.

Credit for the elderly

In general, the credit for the elderly is reduced by one-half of adjusted gross income in excess of certain limitations. The phaseout begins at an adjusted gross income level of $7,500 for single individuals, $10,000 for married couples filing joint returns, and $5,000 for married individuals filing separate returns. However, married individuals may claim the credit on a separate return only if they live apart at all times during the taxable year.

One alternative for a system of widespread separate filing would be to allow the credit for separate returns but to base the phaseout on the spouses' combined income. No credit would be allowed unless the taxpayer could substantiate his or her spouse's income. However, this would continue the marriage penalty because the phaseout would be higher for two single persons than for a married couple. A second alternative would be to continue present law for married persons filing separately but to repeal the requirement that they live apart; that is, the phaseout for each spouse would be based on that spouse's income and the phaseout range would be one-half of what it now is for spouses filing jointly. This however, also creates a marriage penalty. A third alternative would set the phaseout level for each spouse at the level which currently applies to each single individual (i.e., $7,500). This would eliminate the marriage penalty. Both the second and third alternatives would make the credit available to many spouses in high-income families where the income is unequally divided, a group Congress did not intend to help when it enacted the credit.

Earned income credit

The earned income credit phases out at a rate of 12.5 cents for each dollar of income above $6,000. Thus, the credit does not apply to taxpayers who have $10,000 or more of income.

The earned income credit raises essentially the same problems as the elderly credit under a system of separate filing. Either the phaseout must be set in a way that creates a marriage penalty or the credit must be greatly expanded to low-income spouses in high-income families for whom it was not intended.

Because the earned income credit is only available to persons who maintain a household for certain dependents, in a system of separate filing the credit would be available to whichever spouse maintains the household. Rules could be established to allow the credit when neither spouse alone meets the requirements for maintaining a household, but both meet them together. Presumably if two spouses lived apart and each maintained a household for a dependent, both spouses could receive the earned income credit.

Disability income exclusion

Under present law, a disability income exclusion of up to $5,200 annually is available to certain disabled, retired taxpayers under the age of 65. This exclusion phases out on a dollar-for-dollar basis as adjusted gross income exceeds $15,000. Thus, no exclusion is available for a taxpayer with $20,200 or more of adjusted gross income. The disability income exclusion raises similar issues as the elderly credit and the earned income credit. However, some might contend that the disability income exclusion (unlike the credits) is personal with respect to the taxpayer who receives disability income and that, therefore, each spouse should be entitled separately to claim the disability income exclusion.

Taxation of unemployment compensation

As part of the Revenue Act of 1978, Congress decided to tax unemployment compensation to a limited extent. The reason for this was Congress' belief that unemployment compensation benefits are, in substance, a substitute for taxable wages. Congress also believed that prior law's total exclusion of unemployment compensation benefits tended to create a work disincentive. This disincentive was especially serious for two-earner couples where, because of the high marginal tax rate, tax-exempt unemployment benefits were often worth more than taxable wages. However, rather than taxing unemployment compensation in full, Congress decided generally to tax unemployment compensation received by relatively high-income taxpayers.

The amount of unemployment compensation that must be included in a taxpayer's gross income (and, thus, subject to tax) depends upon the amount of unemployment compensation received by the taxpayer, the amount of the taxpayer's other income, and the filing status of the taxpayer. For a single taxpayer, the amount of unemployment compensation to be included in income generally is limited to one-half of the excess of adjusted gross income plus unemployment compensation over $20,000. (For married taxpayers filing jointly the requisite amount is $25,000). A married taxpayer who files separately must include unemployment compensation in income to the extent of one-half of the unemployment compensation plus other income with no income phaseout. For example, a single taxpayer who has adjusted gross income of $20,000 plus unemployment compensation of $4,000 would include $2,000 of unemployment compensation in income; a married taxpayer in similar circumstances would include none of the unemployment compensation in gross income if the couple filed a joint return but would be required to include all of the unemployment compensation in gross income if a separate return were filed. As with other provisions with income phaseouts, separate filers are denied benefits under present law to prevent their using separate returns to avoid the income phaseout.

In a system that encourages or mandates separate filing, there would be a number of options concerning the treatment of unemployment compensation. A married couple could be required to pool their income in order to determine how much of each, or both, spouse's unemployment compensation should be taxed. Alternatively, the couple could be treated as two single individuals; that is, each could be taxed only to the extent that each had unemployment compensation and other income in excess of $20,000. The couple could be treated midway between the present law treatment applicable to single persons and married persons filing separately (for example, each spouse could be taxed on unemployment compensation to the extent that each spouse's unemployment compensation plus other income exceeds $10,000). Finally, the law could be changed to simply make all unemployment compensation taxabe for everyone.

It shoud be noted that mandatory and optional separate filing would reduce the work disincentives provided by tax-exempt unemployment compensation by reducing the marginal tax rates on secondary earners.

V. ANALYSIS OF SPECIFIC PROPOSALS

Specific proposals to change the current tax treatment of the family include (1) mandatory separate filing by married couples using the same rate schedule as single persons, (2) optional separate filing using the same rate schedule as single persons, (3) a deduction for two-earner couples, (4) a credit for two-earner couples, (5) allowing single persons to use the joint return rate schedule and (6) uattening out the tax rate schedule.

Mandatory separate filing

Requiring married couples to file as two single persons would mean returning to a system similar to the one in effect between 1913 and 1948. There would have to be a new solution to the problem that toppled the pre-1948 system, the different tax burdens in community-property and common-law States. This might be accomplished by overriding community property laws, at least for earned income, and by allocating earned income to the earner. Investment income could be reported by the spouse who owns the property. Alternatively, investment income could be allocated arbitrarily in proportion to earned income, entirely to the spouse with the greater earnings, or 50–50 between spouses, with the same rules applying in all States. There also might have to be changes in the present rules for allocating deductions between spouses.

Mandatory separate filing would eliminate the marriage penalty and marriage bonus now inherent in the tax rate schedules. However, the allocation rules for investment income and deductions could create new marriage bonuses or penalties if the rules for married persons were different than those pertaining to single persons. If the allocation rules for investment income and deductions attempted to duplicate what would happen were the couple not married, there would be opportunities to create marriage bonuses by careful tax planning (for example, by shifting investment income to the spouse with the lower amount of earned income and deductions to the spouse with the greater amount of adjusted gross income).

Some vestiges of joint filing would probably have to be retained. Otherwise, the provisions of the tax law which give benefits that phase out based on income would not work as intended because they would give benefits to low-income taxpayers with high-income spouses. To prevent this, the phaseouts would have to be based on joint income, which would reintroduce a marriage penalty.

Thus, complete marriage neutrality is likely to prove to be an elusive goal. The closer a system of separate filing attempts to duplicate what would happen if the married couple were unmarried, the more complex it would be.

The technical issues raised by separate filing exist under the present law for married couples who file separately. However, this group is only 1.3 percent of all married couples. Furthermore, because the present policy is to discourage separate filing, it is possible to resolve issues simply by penalizing separate filers, a solution which would be unacceptable if the policy were to encourage separate filing.

The revenue effect and distribution by income class of mandatory separate filing depend on just how investment income and itemized deductions are allocated. Tables 8 and 9 show the impact of two possible allocations.

In table 8, both investment income and deductions are split in proportion to earned income. The net tax increase, at 1979 income levels, is $18.1 billion, which consists of tax cuts for 14.7 million returns totaling $7.0 billion offset by tax increases for 25.4 million returns totaling $25.1 million. This proposal would finance a 7.8 percent across-the-board tax cut.

Table 9 shows the revenue and distributional effects of mandatory separate filing under the assumption that investment income is allocated 50–50 and deductions are allocated proportionately to earned income. The overall tax increase would be $12.4 billion. There would be tax increases for 23.7 million returns totaling $21.1 billion and tax cuts for 16.1 million returns totaling $8.7 billion. This proposal would finance a 5.5-percent across-the-board income tax cut.

No estimates are provided for exact allocations of investment income and deductions because data to make such estimates are not available.

H.R. 108 (sponsored by Rep. Annunzio) and H.R. 2553 (sponsored by Rep. McDonald) embody the concept of separate filing using the current joint return rate schedule.

TABLE 8.—REVENUE EFFECT OF REQUIRING MARRIED COUPLES TO FILE AS SINGLE PERSONS AT 1979 INCOME LEVELS [1]

[Returns in thousands, dollars in millions]

Expanded income (thousands)	Tax decrease		Tax increase		Net tax change	Percent of total tax increase
	Returns	Amount	Returns	Amount		
Below $5	0	0	479	$61	$61	0.3
$5 to $10	542	—$73	4,015	1,138	1,065	5.9
$10 to $15	1,855	—404	4,181	1,781	1,377	7.6
$15 to $20	3,011	—847	3,857	2,278	1,431	7.9
$20 to $30	6,220	—2,257	6,398	5,769	3,512	19.4
$30 to $50	2,658	—2,305	4,621	7,115	4,810	26.6
$50 to $100	345	—824	1,478	4,850	4,026	22.3
$100 to $200	41	—204	266	1,518	1,314	7.3
$200 and above	13	—129	66	620	490	2.7
Total	**14,686**	**—$7,045**	**25,361**	**$25,130**	**$18,085**	**100.0**

[1] Assumes investment income and deductions are allocated in the same proportion as earned income, which is allocated to the earner. Investment income is defined as interest and dividend income plus capital gains. The table does not include any revenue impact from whatever changes to the head-of-household rate schedule would be made in connection with this proposal.

TABLE 9.—REVENUE EFFECT OF REQUIRING MARRIED COUPLES TO FILE AS SINGLE PERSONS AT 1979 INCOME LEVELS [1]

[Returns in thousands, dollars in millions]

Expanded income (thousands)	Tax decrease		Tax increase		Net tax change	Percent of total tax increased
	Returns	Amount	Returns	Amount		
Below $5	0	0	420	$134	$134	1. 1
$5 to $10	642	−$83	3, 722	984	902	7. 3
$10 to $15	2, 085	−443	3, 938	1, 582	1, 139	9. 2
$15 to $20	3, 176	−905	3, 701	2, 101	1, 196	9. 6
$20 to $30	6, 473	−2, 369	6, 145	5, 284	2, 914	23. 5
$30 to $50	2, 931	−2, 564	4, 351	6, 056	3, 492	28. 2
$50 to $100	573	−1, 333	1, 251	3, 271	1, 938	15. 6
$100 to $200	135	−591	173	778	188	1. 5
$200 and above	52	−401	28	894	492	4. 0
Total	**16, 067**	**−$8, 689**	**23, 729**	**$21, 085**	**$12, 396**	**100. 0**

[1] Assumes investment income is allocated 50–50 and that deductions are allocated in the same proportion as earned income, which is allocated to the earner. The table does not include any revenue impact from whatever changes to the head-of-household rate schedule would be made in connection with this proposal.

Optional separate filing

The second alternative would be to give married couples the option of filing as two single individuals (as opposed to the present system in which separate filing is optional, but almost always disadvantageous). This proposal involves essentially the same technical issues as mandatory separate filing, although there could be more flexibility in resolving them because separate filing would not be mandatory. It involves the additional complexity that many taxpayers would compute their tax both separately and jointly to make sure they minimized their tax liability. Optional separate filing has the further problem that it does not conclusively resolve the question of what is the proper tax unit. It would, however, eliminate the marriage penalty inherent in the tax rate schedules.

The revenue and distributional effects of optional separate filing can be obtained from looking at the parts of tables 8 and 9, which show the taxpayers who would have tax decreases under mandatory separate filing, because these would be the ones who would elect to file separately under optional separate filing. If income and deductions were allocated proportionately to earned income the revenue loss for optional separate filing would be $7.0 billion. This could be financed by a 3.4 percent increase in individual income tax rates. If investment income were allocated 50–50 between spouses and deductions allocated proportionately, the revenue loss would be $8.7 billion, which could be financed by a 4.3 percent tax increase.

The concept of optional separates filing at current single person tax rates is embodied in H.R. 3609 (sponsored by Rep. Fenwick), H.R. 5012 (sponsored by Rep. Moore), and S. 336 (sponsored by Sen. Mathias).

Deduction for two-earner couples

The third proposal would maintain the existing system of joint returns, in which separate filing is almost always disadvantageous, but would provide some relief to two-earner married couples through a deduction equal to a percentage of the earned income of the spouse with the lesser amount of earnings. The deduction would be allowable whether or not a taxpayer itemized other deductions. Earned income would be determined without regard to community property laws.

The deduction for two-earner couples is the simplest way of reducing the marriage penalty and marginal tax rates on second earners. The reductions in the marriage penalty would not be uniform for all couples; however, the reduction in marginal tax rates would be uniform unless there were a cap on the deduction. This proposal would avoid most of the complexities of either optional or mandatory separate filing.

Tables 10 and 11 show the revenue effects of various deductions for second earners. A 10-percent deduction would have a revenue loss of $3.7 billion. One way to reduce this revenue loss would be to put a cap on the amount of earnings eligible for the deduction. For example, a $10,000 cap would reduce the revenue loss to $3.2 billion, and a $20,000 cap would reduce it to $3.6 billion. A cap would reduce the benefit from the deduction to high-income families; however, these are precisely the families for whom the marriage penalty is largest, both absolutely

TABLE 10.—TAX REDUCTION FROM GRANTING JOINT RETURNS A DEDUCTION BASED UPON THE EARNED INCOME OF THE LESSER EARNING SPOUSE AT 1979 INCOME LEVELS

[Returns in thousands; dollars in millions]

Expanded income (thousands)	Returns	10 percent, up to $10,000	10 percent, up to $20,000	20 percent, up to $20,000	10 percent, no cap
Below $5	0	−0	−0	−0	0
$5 to $10	1, 114	−$32	−$32	−$61	−$32
$10 to $15	3, 085	−178	−178	−351	−178
$15 to $20	4, 442	−449	−451	−890	−451
$20 to $30	8, 147	−1, 388	−1, 470	−2, 892	−1, 471
$30 to $50	3, 572	−925	−1, 194	−2, 349	−1, 203
$50 to $100	505	−162	−231	−459	−256
$100 to $200	73	−28	−43	−86	−61
$200 and above	16	−6	−10	−20	−22
Total	**20, 953**	**−3, 167**	**−3, 610**	**−7, 107**	**−3, 674**

TABLE 11.—TAX REDUCTION FROM GRANTING JOINT RETURNS A 10-PERCENT DEDUCTION ON THE FIRST $20,000 OF THE EARNED INCOME OF THE LESSER EARNING SPOUSE ONLY FOR COUPLES WITH AT LEAST AN 80–20 EARNINGS SPLIT; AT 1979 INCOME LEVELS

[Returns in thousands; dollars in millions]

Expanded income (thousands)	Returns	Tax reduction
Below $5	0	0
$5 to $10	700	−$27
$10 to $15	1, 968	−155
$15 to $20	3, 104	−400
$20 to $30	5, 959	−1, 336
$30 to $50	2, 449	−1, 057
$50 to $100	241	−167
$100 to $200	23	−21
$200 and above	5	−4
Total	**14, 449**	**−3, 167**

and as a percentage of after-tax income. Also, a cap means that there would be no reduction in the marginal tax rate on a second earner whose earnings exceeded the cap (i.e., a second earner who already is earning $20,000 would have no additional incentive to earn more).

Another way to reduce the revenue loss would be to limit the deduction to couples with relatively equal earnings divisions. Limiting the deduction to couples where each spouse contributes at least 20 percent of the couple's earnings would reduce the revenue loss from a 10 percent deduction with a $20,000 cap to $3.2 billion, as shown in table 11. A problem with this approach, however, is that it creates an odd pattern of marginal tax rates for married persons whose earnings division is close to 80–20. For example, for a couple whose earnings division is 81–19, there would be a large tax advantage for the lesser-earning spouse to raise his or her contribution to 20 percent, and there would be an equally large tax incentive for the greater-earning spouse to reduce his or her contribution to 80 percent.

Tables 12 through 16 show how these proposals would affect the marriage bonus or penalty.

H.R. 6203 (sponsored by Rep. Fisher) contains a 10-percent deduction with a $10,000 cap. S. 1247 (sponsored by Sen. Gravel) contains a 10-percent deduction with a $20,000 cap. S. 1877 (sponsored by Sen. Sasser) has a 20-percent deduction with a $20,000 cap. H.R. 6822 (sponsored by Rep. Conable) has a 10-percent deduction with a $20,000 cap, limited to couples where each spouse contributes at least 20 percent of the couple's combined earnings.

TABLE 12.—EFFECT OF MARRIAGE ON TAX LIABILITY WITH A DEDUCTION OF 10-PERCENT OF UP TO $10,000 OF THE LESSER EARNING SPOUSE'S EARNED INCOME [1]

	Share of lesser earning spouse										
	0	5	10	15	20	25	30	35	40	45	50
Total family income	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
$5,000	−250	−210	−170	−133	−98	−63	−28	0	0	0	0
$7,000	−378	−320	−262	−204	−146	−91	−39	12	59	103	119
$10,000	−475	−379	−293	−207	−121	−35	46	99	110	120	114
$15,000	−710	−531	−359	−195	−31	54	89	110	110	102	94
$20,000	−1, 092	−784	−508	−232	−54	30	94	132	163	165	151
$25,000	−1, 505	−1, 090	−700	−373	−170	−15	100	203	255	314	331
$30,000	−1, 929	−1, 382	−845	−478	−218	−26	151	324	465	555	583
$40,000	−2, 801	−1, 907	−1, 111	−596	−167	237	601	899	1, 134	1, 214	1, 262
$50,000	−3, 344	−2, 217	−1, 339	−654	−36	643	1, 241	1, 631	1, 949	2, 084	2, 184
$100,000	−3, 464	−1, 464	−141	1, 191	2, 199	2, 974	3, 514	3, 814	3, 869	3, 894	3, 894

[1] Assumes no itemized deductions. Marriage penalties would be smaller, and marriage bonuses larger, for itemizers. Marriage penalties are positive in the table, marriage bonuses are negative.

TABLE 13.—EFFECT OF MARRIAGE ON TAX LIABILITY WITH A DEDUCTION OF 10-PERCENT OF UP TO $20,000 OF THE LESSER EARNING SPOUSE'S EARNED INCOME [1]

	Share of lesser earning spouse										
	0	5	10	15	20	25	30	35	40	45	50
Total family income	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
$5,000	−250	−210	−170	−133	−98	−63	−28	0	0	0	0
$7,000	−378	−320	−262	−204	−146	−91	−39	12	59	103	119
$10,000	−475	−379	−293	−207	−121	−35	46	99	110	120	114
$15,000	−710	−531	−359	−195	−31	54	89	110	110	102	94
$20,000	−1,092	−784	−508	−232	−54	30	94	132	163	165	151
$25,000	−1,505	−1,090	−700	−373	−170	−15	100	203	255	280	261
$30,000	−1,929	−1,382	−845	−478	−218	−26	151	308	401	443	423
$40,000	−2,801	−1,907	−1,111	−596	−167	237	515	727	876	870	832
$50,000	−3,344	−2,217	−1,339	−654	−36	521	996	1,264	1,459	1,594	1,694
$100,000	−3,464	−1,464	−141	941	1,699	2,474	3,014	3,314	3,369	3,394	3,394

[1] Assumes no itemized deductions. Marriage penalties would be smaller, and marriage bonuses larger, for itemizers. Marriage penalties are positive in the table, marriage bonuses are negative.

TABLE 14.—EFFECT OF MARRIAGE ON TAX LIABILITY WITH A DEDUCTION OF 20-PERCENT OF UP TO $20,000 OF THE LESSER EARNING SPOUSE'S EARNED INCOME [1]

	Share of lesser earning spouse										
	0	**5**	**10**	**15**	**20**	**25**	**30**	**35**	**40**	**45**	**50**
Total family income	**(1)**	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**	**(7)**	**(8)**	**(9)**	**(10)**	**(11)**
$5,000	−250	−210	−170	−133	−98	−63	−28	0	0	0	0
$7,000	−378	−325	−272	−218	−165	−115	−69	−23	20	59	70
$10,000	−475	−388	−311	−234	−157	−78	−4	42	46	48	4
$15,000	−710	−547	−391	−242	−94	−25	−6	0	−13	−32	−52
$20,000	−1, 092	−808	−556	−304	−150	−90	−50	−36	−29	−51	−89
$25,000	−1, 505	−1, 125	−770	−478	−310	−190	−110	−42	−25	−35	−89
$30,000	−1, 929	−1, 430	−941	−622	−410	−266	−137	−28	17	11	−57
$40,000	−2, 801	−1, 993	−1, 283	−854	−511	−193	−1	125	212	144	44
$50,000	−3, 344	−2, 339	−1, 584	−1, 021	−526	−74	309	484	587	722	822
$100,000	−3, 464	−1, 714	−641	191	699	1, 474	2, 014	2, 314	2, 369	2, 394	2, 394

[1] Assumes no itemized deductions. Marriage penalties would be smaller, and marriage bonuses larger, for itemizers. Marriage penalties are positive in the table, marriage bonuses are negative.

TABLE 15.—EFFECT OF MARRIAGE ON TAX LIABILITY WITH A DEDUCTION OF 10-PERCENT OF THE LESSER EARNING SPOUSE'S EARNED INCOME WITH NO CAP [1]

	Share of lesser earning spouse										
	0	5	10	15	20	25	30	35	40	45	50
Total family income	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
$5000	−250	−210	−170	−133	−98	−63	−28	0	0	0	0
$7000	−378	−320	−262	−204	−146	−91	−39	12	59	103	119
$10,000	−475	−379	−293	−207	−121	−35	46	99	110	120	114
$15,000	−710	−531	−359	−195	−31	54	89	110	110	102	94
$20,000	−1,092	−784	−508	−232	−54	30	94	132	163	165	151
$25,000	−1,505	−1,090	−700	−373	−170	−15	100	203	255	280	261
$30,000	−1,929	−1,382	−845	−478	−218	−26	151	308	401	443	423
$40,000	−2,801	−1,907	−1,111	−596	−167	237	515	727	876	870	832
$50,000	−3,344	−2,217	−1,339	−654	−36	521	996	1,264	1,459	1,475	1,467
$100,000	−3,464	−1,464	−141	941	1,699	2,224	2,514	2,564	2,369	2,144	1,894

[1] Assumes no itemized deductions. Marriage penalties would be smaller, and marriage bonuses larger, for itemizers. Marriage penalties are positive in the table, marriage bonuses are negative.

TABLE 16.—EFFECT OF MARRIAGE ON TAX LIABILITY WITH A DEDUCTION OF 10-PERCENT OF UP TO $20,000 OF THE LESSER EARNING SPOUSE'S EARNED INCOME ONLY WHERE EACH SPOUSE CONTRIBUTES 20 PERCENT OR MORE OF COMBINED EARNINGS [1]

	Share of lesser earning spouse										
	0	5	10	15	20	25	30	35	40	45	50
Total family income	**(1)**	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**	**(7)**	**(8)**	**(9)**	**(10)**	**(11)**
$5,000	−250	−210	−170	−133	−98	−63	−28	0	0	0	0
$7,000	−378	−315	−252	−189	−146	−91	−39	12	59	103	119
$10,000	−475	−370	−275	−180	−121	−35	46	99	110	120	114
$15,000	−710	−515	−328	−148	−31	54	89	110	110	102	94
$20,000	−1,092	−760	−460	−160	−54	30	94	132	163	165	151
$25,000	−1,505	−1,055	−630	−268	−170	−15	100	203	255	280	261
$30,000	−1,929	−1,334	−749	−334	−218	−26	151	308	401	443	423
$40,000	−2,801	−1,821	−939	−338	−167	237	515	727	876	870	832
$50,000	−3,344	−2,094	−1,094	−36	−36	521	996	1,264	1,459	1,594	1,694
$100,000	−3,464	−1,214	359	1,691	1,699	2,474	3,014	3,314	3,369	3,394	3,394

[1] Assumes no itemized deductions. Marriage penalties would be smaller, and marriage bonuses larger, for itemizers. Marriage penalties are positive in the table, marriage bonuses are negative.

Credit for two-earner couples

Another alternative would be a tax credit equal to a percentage of the earnings of the spouse with the lesser amount of earnings. This would be as simple as and more progressive than a deduction. However, it would not be as effective as a deduction, per dollar of revenue loss, in reducing marginal tax rates in the high income brackets, where high marginal rates present the most serious problems.

Table 17 shows the revenue and distributional effects of a 10 percent credit on up to $10,000 of earnings. The revenue loss would be $11.7 billion at 1979 income levels, which could be financed by a 5.8 percent across the board tax increase. The effect of the tax credit on the marriage penalty is shown in table 18. Per dollar of revenue loss, a credit would be less effective than a deduction in reducing the marriage penalty in those income brackets where the marriage penalty is more significant.

A credit of 10 percent of up to $10,000 of earnings of the lesser-earning spouse is embodied in H.R. 6798 (sponsored by Rep. Patten). Under this bill, the maximum credit would be $500, and the credit would be phased out as the couple's earnings split widens from 70–30 to 80–20.

Taxing single people at joint return tax rates

A fifth proposal, which was prominently mentioned when Congress was more concerned about alleged discrimination against single persons but has not been mentioned as prominently in recent years, would allow single persons to use the joint return rate schedule. Table 19 shows the revenue and distributional effects of this proposal. The revenue loss would be $11.4 billion at 1979 income levels, which could be financed by a 5.7 percent tax increase.

TABLE 17.—TAX REDUCTION FROM GRANTING JOINT RETURNS A 10-PERCENT CREDIT ON THE FIRST $10,000 OF EARNED INCOME OF THE LESSER EARNING SPOUSE—AT 1979 INCOME LEVELS

[Returns in thousands; dollars in millions]

Expanded income (thousands)	Returns	Tax reduction
Below $5	0	0
$5 to $10	1, 118	$160
$10 to $15	3, 085	958
$15 to $20	4, 442	2, 129
$20 to $30	8, 146	5, 362
$30 to $50	3, 566	2, 670
$50 to $100	493	337
$100 to $200	69	49
$200 and above	13	10
Total	**20, 933**	**$11, 674**

TABLE 18.—EFFECT OF MARRIAGE ON TAX LIABILITY WITH A TAX CREDIT OF 10-PERCENT OF THE FIRST $10,000 OF THE LESSER EARNING SPOUSE'S EARNED INCOME[1]

	Share of lesser earning spouse										
	0	5	10	15	20	25	30	35	40	45	50
Total family income	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
$5,000	−250	−235	−220	−208	−198	−188	−178	−175	−200	−225	−250
$7,000	−378	−350	−322	−294	−266	−241	−220	−199	−182	−168	−182
$10,000	−475	−420	−375	−330	−285	−240	−200	−188	−218	−250	−298
$15,000	−710	−590	−478	−373	−268	−243	−267	−305	−364	−431	−499
$20,000	−1, 092	−860	−660	−460	−358	−350	−362	−400	−445	−519	−609
$25,000	−1, 505	−1, 180	−880	−643	−530	−465	−440	−428	−465	−406	−389
$30,000	−1, 929	−1, 484	−1, 049	−784	−626	−536	−461	−356	−215	−125	−97
$40,000	−2, 801	−2, 021	−1, 339	−938	−623	−333	31	329	564	644	692
$50,000	−3, 344	−2, 344	−1, 594	−1, 036	−546	133	731	1, 121	1, 439	1, 574	1, 674
$100,000	−3, 464	−1, 714	−641	691	1, 699	2, 474	3, 014	3, 314	3, 369	3, 394	3, 394

[1] Assumes no itemized deductions. Marriage penalties would be smaller, and marriage bonuses larger, for itemizers. Marriage penalties are positive in the table, marriage bonuses are negative.

Further reducing the tax rates applicable to single persons would exacerbate the marriage penalty. To reduce the marriage penalty, this proposal could be combined with proposals for a deduction for second earners. Also, to provide tax relief for larger families, it could be combined with an enlarged personal exemption for dependents. The combined effect of all of these changes would be to increase the tax burden on small, one-earner families.

Taxing single persons under the joint return rate schedule is embodied in H.R. 872 (sponsored by Rep. Yates).

TABLE 19.—TAX REDUCTION FROM ALLOWING SINGLES AND HEADS OF HOUSEHOLDS TO BE TAXED AT JOINT RETURN RATES AT 1979 INCOME LEVELS

[Returns in thousands; dollars in millions]

Expanded income (thousands)	Returns	Amount
Below $5	4, 568	−$443
$5 to $10	11, 809	−2, 543
$10 to $15	7, 205	−2, 462
$15 to $20	4, 110	−2, 074
$20 to $30	2, 774	−2, 226
$30 to $50	676	−929
$50 to $100	160	−463
$100 to $200	33	−172
$200 and above	9	−83
Total	**31, 345**	**−$11, 395**

Flattening out the rate schedule

Another approach to reduce the marriage penalty is to flatten the rate schedules for all categories of taxpayers.

This approach in its simplest form can best be explained by using an example. Suppose that tax liability were simply equal to 33.3 percent of taxable income, minus a nonrefundable taxpayer credit of $1,000 for unmarried individuals and $2,000 for a married couple filing a joint return. In this situation, if two single individuals each had taxable income of, for example, $10,000, each would have tax liability of $2,333. If they married and filed a joint return, they would have a tax liability of $4,666 (20,000 × .33 − 2,000). Thus, this system is "marriage neutral" with respect to these two individuals. In fact, with respect to any two individuals each with taxable income of at least $3,000 (so that they both can take full advantage of the nonrefundable credit), this tax system would be completely "marriage neutral" and would have "equal taxation of couples with equal incomes" regardless of each spouse's share of the couple's combined earnings.

Changing the rate schedule in such a fashion would, of course, cause a large shift in the progressivity of the income tax. However, a less radical "flattening-out" in rates could make the tax system nearly marriage neutral with respect to the majority of individuals in the United States.

For example, suppose that rate schedules were as follows: (1) married filing jointly—24 percent of the first $35,200 of taxable income, 45 percent of taxable income between $35,200 and $45,800, with current law rates thereafter, and (2) single taxpayers—24 percent of the first $23,500 of taxable income, 44 percent of taxable income between $23,500 and $34,100, with current law rates thereafter. Suppose also that single and joint returns were entitled to a new nonrefundable credit of $800 and $1,600, respectively. Then, leaving aside the complications of head-of-household status, the marriage penalty would be virtually eliminated for couples with less than $35,200 of taxable income and would be substantially reduced for all others. Leaving head-of-household rates unchanged and the floors under itemized deductions at their current levels ($2,300 for single taxpayers and $3,400 for married couples filing joint returns), such a change would have a net revenue cost of $10.9 billion relative to current law. (Some single taxpayers would have tax increases under this example.) A wide variety of such rate schedules and credits could be constructed, each of which would substantially reduce the marriage penalty, in order to achieve desired distributions of the tax burden among income classes and filing status categories.

APPENDIX

Trends in Labor Force Participation

Since World War II, there has been an extraordinary increase in the number of women who work outside the home. In 1950, only 33.9 percent of all women were in the labor force (that is, either had jobs or were looking for jobs). By 1979, this had increased to 51.0 percent. These statistics are shown in Table A–1. For women in their principal child-bearing years (25–34), the increase in labor force participation has been even more dramatic—from 34.0 percent in 1950 to 63.8 percent in 1979. These increasing labor force participation rates for women are in contrast to the slight declines in the labor force participation rates for men, which are also shown in Table A–1.

Table A–2 shows the increase in the number of two-earner families during the 1970's. In 1979, both the husband and wife worked in more than half of all husband-wife families. The traditional one-earner family, in which the husband is the only earner, accounted for only 25.6 percent of all families in 1979. This is a sharp decline even from the situation prevailing in 1970, when 34.1 percent of all husband-wife families had only the husband as an earner.

Table A–3 compares the labor force participation rates and unemployment rates for men and women with different marital status. It shows that almost half of all married women were in the labor force in 1979.

Table A–4 shows the labor force status of women with children. More than half of all married women who live with their husbands and have children under 18 are in the labor force, including over 43 percent of such women with children under 6.

Table A–5 shows the wife's contribution to family earnings broken down by income class. Wives contribute a median of 26.1 percent of family earnings. This percentage stays relatively constant up to about $35,000 of income, after which it declines.

TABLE A–1.—CIVILIAN LABOR FORCE PARTICIPATION RATES BY SEX FOR SELECTED YEARS AND AGES

[Numbers in thousands]

	1950		1960		1970		1979	
	Labor force	Part. rate	Labor force	Part. rate	Labor force	Part. rate	Labor force	Part. rate
Males 16 and over, total	43, 819	86. 4	46, 388	83. 3	51, 195	79. 7	59, 517	77. 9
20 to 24	4, 632	87. 9	4, 123	88. 1	5, 709	83. 3	8, 239	86. 6
25 to 34	10, 527	96. 0	10, 252	97. 5	11, 311	96. 4	15, 792	95. 4
35 to 44	9, 793	97. 6	10, 967	97. 7	10, 464	96. 9	11, 337	95. 8
45 to 54	8, 117	95. 8	9, 574	95. 7	10, 417	94. 2	10, 051	91. 4
55 to 64	5, 794	86. 9	6, 400	86. 8	7, 124	83. 0	7, 140	73. 0
Females 16 and over, total	18, 389	33. 9	23, 240	37. 7	31, 520	43. 3	43, 391	51. 0
20 to 24	2, 675	46. 0	2, 580	46. 1	4, 874	57. 7	7, 029	69. 1
25 to 34	4, 092	34. 0	4, 131	36. 0	5, 698	45. 0	11, 167	63. 8
35 to 44	4, 161	39. 1	5, 303	43. 4	5, 967	51. 1	8, 130	63. 6
45 to 54	3, 327	37. 9	5, 278	49. 8	6, 531	54. 4	6, 860	58. 4
55 to 64	1, 839	27. 0	2, 986	37. 2	4, 153	43. 0	4, 579	41. 9

Source: Bureau of Labor Statistics.

TABLE A–2.—NUMBER OF EARNERS IN HUSBAND-WIFE FAMILIES BY TYPE OF FAMILY IN 1970 AND 1979

[Numbers in thousands]

	1970		1979	
	Number	Percent	Number	Percent
Total families	51, 237		57, 804	
Husband-wife, total	44, 436	100. 0	47, 692	100. 0
No earner	3, 022	6. 8	5, 101	10. 7
1 earner	16, 268	36. 6	14, 173	29. 7
Husband only	15, 133	34. 1	12, 194	25. 6
Wife only	797	1. 8	1, 477	3. 1
Other relative	339	. 8	502	1. 1
2 or more earners	25, 145	56. 6	28, 418	59. 6
Husband and wife	20, 327	45. 7	24, 253	50. 9
Husband and other	4, 517	10. 2	3, 583	7. 5
Husband not earner	302	. 7	582	1. 2

Source: Bureau of Labor Statistics.

TABLE A–3.—EMPLOYMENT STATUS OF PERSONS 16 YEARS AND OVER BY MARITAL STATUS AND SEX IN 1979

[Numbers in thousands]

Marital status and sex	Population	Civilian labor force: Number	Civilian labor force: Labor force participation rate	Civilian labor force: Employed	Unemployed: Number	Unemployed: Percent of labor force	Armed Forces [1]
Both sexes, total [2]	161,580	101,579	63.2	95,387	6,193	6.1	824
Men	76,894	58,608	77.0	55,237	3,372	5.8	824
Never married	21,105	14,895	70.9	13,108	1,787	12.0	111
Married, wife present	48,255	38,756	81.4	37,514	1,243	3.2	663
Other ever married	7,534	4,957	66.2	4,615	343	6.9	50
Married, wife absent	2,117	1,599	76.5	1,470	129	8.1	27
Widowed	1,945	570	29.3	547	23	4.0	
Divorced	3,472	2,789	80.9	2,598	191	6.8	23
Women	84,686	42,971	50.7	40,150	2,821	6.6	
Never married	17,564	11,006	62.7	9,940	1,066	9.7	
Married, husband present	48,239	23,832	49.4	22,620	1,212	5.1	
Other ever married	18,884	8,133	43.1	7,590	543	6.7	
Married, husband absent	3,075	1,808	58.8	1,631	177	9.8	
Widowed	10,450	2,358	22.6	2,235	123	5.2	
Divorced	5,359	3,967	74.0	3,723	243	6.1	

[1] Includes only male members of the Armed Forces living off post or with their families on post.

[2] Due to rounding, sums of individual items may not equal totals.

Source: Bureau of Labor Statistics.

TABLE A-4.—LABOR FORCE STATUS OF WOMEN 16 YEARS AND OVER, BY MARITAL STATUS AND PRESENCE, OF CHILDREN 1979

[Numbers in thousands]

	Total	No children under 18	With children under 18: Total	With children under 18: 6 to 17	With children under 18: under 6
Women, total	84, 686	54, 204	30, 482	17, 164	13, 367
In labor force	42, 971	26, 355	16, 616	10, 570	6, 041
Participation rate	50. 7	48. 6	54. 5	61. 6	45. 4
Never married	17, 564	16, 651	913	300	613
In labor force	11, 006	10, 513	493	190	303
Participation rate	62. 7	63. 1	54. 0	63. 4	49. 4
Married, husband present	48, 239	23, 474	24, 765	13, 655	11, 110
In labor force	23, 832	10, 974	12, 858	8, 064	4, 795
Participation rate	49. 4	46. 7	51. 9	59. 1	43. 2

Source: Bureau of Labor Statistics.

TABLE A-5.—NUMBER OF FAMILIES CLASSIFIED BY CONTRIBUTION OF WIFE'S EARNINGS TO FAMILY INCOME IN 1977

[Numbers of families in thousands]

Family income	Total	Percent earned by wife: Less than 5	5 to 9.9	10 to 19.9	20 to 29.9	30 to 39.9	40 to 49.9	50 to 74.9	75 or more	Median percent
Total	24, 839	3, 203	2, 285	4, 223	4, 456	4, 406	3, 330	2, 361	574	26. 1
Under $3,000	166	46	4	11	18	15	12	22	37	31. 9
$3,000 to $4,999	303	37	36	48	37	26	27	44	47	28. 1
$5,000 to $6,999	718	117	89	133	82	70	60	86	81	22. 5
$7,000 to $9,999	1, 678	247	194	245	236	202	192	257	104	26. 5
$10,000 to $12,999	2, 435	363	253	416	362	299	305	319	117	25. 1
$13,000 to $14,999	1, 842	241	204	290	313	269	226	235	63	25. 9
$15,000 to $19,999	5, 241	734	455	912	878	889	715	576	82	25. 9
$20,000 to $24,999	4, 654	548	363	712	897	975	754	389	18	27. 9
$25,000 to $34,999	5, 088	510	382	836	1, 081	1, 167	773	322	16	27. 5
$35,000 to $49,999	2, 040	218	201	456	441	405	230	89	1	23. 3
$50,000 and over	673	141	105	164	110	89	36	22	8	15. 6
Median family income (dollars)	20, 039	18, 741	18, 986	20, 399	21, 674	22, 216	20, 848	16, 887	10, 478	-------

Source: Bureau of Labor Statistics.