

UNATTACHED AND TAXED: REFORMING THE SINGLE'S TAX IN AMERICA

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“Every culture has some ritual for joining two people together and making them stay that way, and ours is giving tax breaks.”¹

Americans are conditioned to “partner up” for many deeply embedded cultural reasons: religion, gender roles, socioeconomics, and of course, the desire for “true love.” Many think that to thrive in society you must subscribe to the concepts of marriage and partnership. And in some ways, this logic is true. Our relationship statuses define not only where we live and when and with whom we socialize, but also what we pay the government and how we are perceived by others. In the United States, these constructs significantly impact both genders, though more acutely women, whose roles for centuries have been defined more by marital status than by personal and professional contributions. For decades, researchers have articulated and debated whether laws that favor marriages and families, like taxes and social security, influence marriage decisions. Despite the thousands of federal laws in place to influence and protect the family unit, recent demographics reflect a growing prevalence of single households. Yet when the number of protections for singles is compared to the broad range of laws and regulations for married couples, singles are a legislative afterthought. In addition to couples, American laws cover “race, religion, gender and age—but singles go woefully unprotected.”² Scholars and psychologists have attempted

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1. BAUVARD & M.C. HUMPHREYS, SOME INSPIRATION FOR THE OVERENTHUSIASTIC (2011).

2. Leslie Talbot, *Stop Singlism!*, FORBES (Aug. 21, 2007, 6:00PM), https://www.forbes.com/2007/08/21/talbot-singles-discrimination-forbeslife-singles07_cx_lt_0821talbot.html.

to unpack the implications of undervaluing the single³ demographic and how the United States can be more inclusive of this group at the federal level. This Article reaches beyond the idea that America's views about singles not only influence how politicians draft the laws but sheds some light as to *why* the laws are written at the expense of the single class and how experts and legislators can better include singles in the law.

This Article looks at taxation of the family and examines how American tax laws and legislative assumptions influence and support the traditional family unit and the decision to marry, rather than the individual.⁴ It proposes a novel tax remedy that resolves the tension between tax equity and efficiency. Its thesis argues that the tax code and several other family-focused policies stand in dire need of reform to account for the demographic shift away from the traditional family unit and proposes that legislators can do so by crafting policies that are unique to singles and the issues that burden their demographic.

Part I begins with a look at decades of demographic data revealing the decline of the traditional American marriage over the past 45 years. But even with this stark decline, marriage and coupled unions are still prioritized. This section continues with a foundational discussion of "singlism," or the stigmatizing of single adults, and how negative sentiments towards singles determine their reputation and representation in the law and society.⁵

Part II explains how singlism and laws that severely underrepresent singles, while greatly protecting the family unit, are the result of a legislative attempt to balance social welfare and legal equity at the expense of the uncoupled. This section also applies "lumping" and "splitting" as an explanatory basis for the various types of legal grouping that severely impact singles in America and how these benefits magnify and feed singlism and discrimination against singles.

Part III continues with a detailed discussion about the singles tax penalty and its function as an inequitable tax burden for single households. The singles tax penalty is one example of legislative policy that sacrifices the financial welfare of single taxpayers for the continued protection of the family structure.⁶ This Section narrows

3. This Article defines single people as individuals 18 or older, who have never been married, do not have children or dependents and live alone.

4. See Edward J. McCaffery, *Taxation and the Family: A Fresh Look at Behavioral Gender Biases in the Code*, 40 UCLA L. REV. 983, 986 (1993); see generally Toni Robinson & Mary Mowers Wenig, *Marry in Haste, Repent at Tax Time: Marital Status as a Tax Determinant*, 8 VA. TAX REV. 773, 776-87 (1989).

5. See generally Bella M. DePaulo & Wendy L. Morris, *The Unrecognized Stereotyping and Discrimination Against Singles*, 15 CURRENT DIRECTIONS IN PSYCHOLOGICAL SCI, 251 (Oct. 2006); see also BELLA M. DEPAULO, *SINGLED OUT: HOW SINGLES ARE STEREOTYPED, STIGMATIZED AND IGNORED, AND STILL LIVE HAPPILY EVER AFTER* (2007); Nancy Leong, *Negative Identity*, 88 S. CAL. L. REV. 1357, 1386 (2015).

6. From a social context, the "singles tax" refers broadly to financial burdens incurred by people who are single, as opposed to those in a relationship or married. However, this Article describes "the singles tax" as "the difference in tax liability between a single individual

down to an overview of the scholarship dedicated to tax equity, and reviews how the federal income tax system has historically created and continues to create tax bonuses and privileges available to marital households, but not single households.

Part IV proposes a suture to the inequitable tax gap between marital couples and singles through implementing a single's tax credit to compensate singles for the financial imbalance they experience because of the tax code. As a policy goal, the singles tax credit should be targeted to specific issues that create unique financial burdens for single households. While fashioning a new credit that would benefit all single households could be a challenge for lawmakers, I also explore the idea of permanently expanding the Earned Income Tax Credit ("EITC") for single filers. The 2021 America Rescue Plan Act increased the EITC for childless filers, one of the first tax efforts made with singles in mind.

"Even if the present tax structure does reflect congressional policy, the prevailing situation can be criticized as an example of bad tax policy."⁷ As the number of single households continues to grow, the gap between singles and married couples will broaden and increase unless addressed by lawmakers. Creating thoughtful tax policies could bring the tax code closer to true marital equality while reducing the socioeconomic impacts of singlism.

I. MARITAL DECLINE AND THE PERPETUATION OF SINGLISM

The following section discusses the demographic increase of the singles class and explains the concept of singlism at work and reviews some of the prominent ways that American marital preferences and biases casts singles into a degrading social class, before leading into a deep analysis of the most popular example of "legal" singlism: the single's tax penalty.

A. *The Rise of the Single Class*

Previous research reveals that the number of unmarried Americans in the U.S. is growing. In 1980, just 6% of 40-year-olds had never been married.⁸ But over the past few decades, marriage rates amongst younger Americans have declined. For example, the 2008

and a married household with identical household income and other characteristics (e.g. deductions)." See also James Alm et al., *Is There a "Singles Tax"? The Relative Income Tax Treatment of Single Households*, PUB. BUDGETING & FIN. 69, 69 (Dec. 2002) (explaining that it is "well known that the individual income tax in the United States is not 'marriage neutral' . . ."); Bella M. DePaulo, *How Do Single People Navigate the "Singles Tax"?*, PSYCHOLOGY TODAY (Feb. 16, 2023), <https://www.psychologytoday.com/us/blog/living-single/202302/how-do-single-people-navigate-the-singles-tax>.

7. Michael W. Betz, *Federal Income Tax Discrimination Between Married and Single Taxpayers*, 7 U. MICH. J. L. REFORM 667, 678 (1974).

8. Richard Fry, *A record-high share of 40-year-olds in the U.S. have never been married*, PEW RSCH. CTR. (June 28, 2023), <https://www.pewresearch.org/short-reads/2023/06/28/a-record-high-share-of-40-year-olds-in-the-us-have-never-been-married>.

and 2010 U.S. Censuses revealed that of the nearly 100 million Americans eighteen and over 43.6% were unmarried, and of these, 61% were never married; whereas over 137 million Americans have never been married as of 2023.⁹ “In 2012, a scant majority (50.7%) of adult Americans (age fifteen and older) were married, while 49.3% were unmarried.”¹⁰ In 2019, 18% of adults younger than 30 identified as married, compared with 31% in 1995.¹¹ When looking across generational data, only 44% of millennials were married in 2019, compared with 53% of Gen X-ers and 61% of baby boomers at the same age.¹²

In 2019, 53% of U.S. adults 18 and older identified as married.¹³ Presently, 46.4% of U.S. adults are single.¹⁴ That is 117.6 million unmarried Americans – nearly every other adult aged 18 and over, including those who are divorced or widowed, as well as those who have never married.¹⁵ Social trends over the past few decades have made it clear that marriage is no longer the leading institution for adult development. “[Experts] attribute some of these trends to increases to no-fault divorce, which began to standardize in the 1970s; the continued aging of boomers — who are growing old but not always together; and college-educated people, in particular, delaying marriage until later in life.”¹⁶ The number of singles in the U.S. is growing, but there are few laws in place to support this growth.¹⁷ Much of this is because of how people see marriage as a perfect marriage. Of course, families and reproduction are two of the elements that propel our society forward, but many individuals and lawmakers find marriages and families to be among the most sacred groups in need of specialized protection.

9. Leong, *supra* note 5, at 1367; <https://www.census.gov/library/visualizations/2024/comm/the-single-life.html>.

10. Anne L. Alstott, *Updating the Welfare State: Marriage, The Income Tax, and Social Security in the Age of Individualism*, 66 TAX L. REV. 695, 709 (2013); see also Jonathan Vespa, et al., AMERICA'S FAMILIES AND LIVING ARRANGEMENTS: 2012, Report No. P20-570, U.S. CENSUS BUREAU, <https://www.census.gov/content/dam/Census/library/publications/2013/demo/p20-570.pdf> (indicating that 50.7% of adults were married in 2012).

11. Juliana Menasce Horowitz, et al., *The Landscape of Marriage and Cohabitation in the U.S.*, PEW RSCH. CTR. (Nov. 6, 2019), <https://www.pewresearch.org/social-trends/2019/11/06/the-landscape-of-marriage-and-cohabitation-in-the-u-s>.

12. Amanda Barroso, et al., *As Millennials Near 40, They're Approaching Family Life Differently Than Previous Generations*, PEW RSCH. CTR. (Mar. 27, 2020), <https://www.pewresearch.org/social-trends/2020/05/27/as-millennials-near-40-theyre-approaching-family-life-differently-than-previous-generations>.

13. Horowitz, *supra* note 11 (“53% of U.S. adults ages 18 and older are married, down from 58% in 1995.”).

14. Press Release, U.S. Census Bureau, Unmarried and Single Americans Week: September 17-23, 2023 (Sep. 17, 2023), <https://www.census.gov/newsroom/stories/unmarried-single-americans-week.html>.

15. *Id.*

16. Anne Helen Peterson, *The Escalating Costs of Being Single in America*, VOX (Dec. 2, 2021), <https://www.vox.com/the-goods/22788620/single-living-alone-cost>.

17. See generally Trina Jones, *Single and Childfree! Reassessing Parental and Marital Status Discrimination*, 46 ARIZ. ST. L.J. 1253, 1258 (2014).

“From the workplace to the voting booth to your own backyard, the message to singles is clear, consistent, and omnipresent: Married: good! Single: bad!”¹⁸ Marriage and coupling are glorified and accepted amongst many single and married people.¹⁹ Most Americans “view[] certain things as fundamental to existence. For example, many people cannot imagine life without religion, sex, partnership, or children.”²⁰ Marriage means spending the rest of your life with your long-awaited partner. Marriage is the end of a solo journey for companionship, a transformative experience that places the couple in a new and exciting phase of life. Naturally, businesses have found ways to feed into this fever dream of marital bliss. Marcia Guttentag and Paul Secord describe the romantic coupling environment in America as a market heavily geared towards those who are paired and partnered off.²¹ Corporate America overwhelmingly exhibits preferential treatment toward families and couples, offering countless discounts for lodging, restaurants, and recreational memberships.²²

The unwavering support of couples also creates an image of indifference or antipathy towards anyone who is unwed or uncoupled. Unpartnered people are then left to navigate amongst these groups in search of their own sense of belonging and integration. The social discomfort and legal stigmatization unpartnered adults face is connected to a phenomenon Bella DePaulo describes as singlism: the stigmatizing of adults who are single or unmarried.²³ Contrary to its definition, it is rarely regarded as a legitimate form of discrimination.²⁴ “Singlism, though, includes big, systematic, structural, and institutional ways in which single people are unfairly disadvantaged, and coupled people are advantaged. It’s the kind of singlism that is built right into laws, policies, practices, and customs.”²⁵

“In sociologists’ terms, marriage was a social institution that transformed individuals into couples with shared lives and shared luck.”²⁶ Marriage created social roles, status, self-defining social attributes, and a daily sense of purpose for most Americans at the start of the 20th century.²⁷ Historically, the treatment of singleness has been both negative and unfavorable.

18. Talbot, *supra* note 2.

19. Wendy L. Morris et al., *No Shelter for Singles: The Perceived Legitimacy of Marital Status Discrimination*, 10 GROUP PROCESSES & INTERGROUP REL. 457, 460 (2007).

20. Leong, *supra* note 5, at 1358.

21. *Id.* at 1369.

22. Lily Kahng, *One is the Loneliest Number: The Single Taxpayer in a Joint Return World*, 61 HASTINGS L.J. 651, 665 (2010); *see also* Talbot, *supra* note 2.

23. *See generally* Bella M. DePaulo & Wendy L. Morris, *Singles in Society and in Science*, 16 PSYCHOL. INQUIRY 57 (2005); *see also* DePaulo *supra* note 5, at 251.

24. *See* DePaulo *supra* note 5, at 252.

25. Bella DePaulo, *The Ways Singlism Exists In Our Everyday Lives*, SOLO LIVING (Sep. 23, 2022), <https://wearesololive.com/the-ways-singlism-exists-in-our-everyday-lives>.

26. Alstott, *supra* note 10, at 696; *see also* Peter Berger & Hansfried Kellner, *Marriage and the Construction of Reality*, 96 DIOGENES 1, 5 (1964).

27. Alstott, *supra* note 10, at 701; *see also* Berger and Kellner, *supra* note 26, at 5.

“Although ‘America has always been a very married country,’ it was not until the twentieth century that singlehood really became viewed with near-universal negativity.”²⁸ Nancy Leong explains that the negative connotation of singleness is what makes it challenging to identify as a form of discrimination.²⁹ It is less tangible than other traditional and obvious forms of discrimination, leading many to brush it under the rug. It is simpler to emphasize the importance of social groups defined by “tangible” attributes like sexual preferences or partners, than to articulate the significance of an identity defined by the absence of these attributes. “In the marriage context . . . [t]here has been no clear articulation of why the [government] needs to take a pro-marriage stance.”³⁰ Yet, in the *Obergefell* opinion, Justice Kennedy captured how easily singles are disregarded in the law with his sentiments for family types that do not mirror the foundational qualities and values of marriage.³¹ He said, “[n]o union is more profound than marriage, for it embodies the highest ideals of love, fidelity, devotion, sacrifice, and family. In forming a marital union, two people become something greater than once they were.”³²

Survey research also chronicles some of the biases against single people. One study revealed that “fifty-three percent (53%) of Americans believe that society is better off if long-term couples get married, while 46% say society is just as well off if they decide not to marry.”³³ Pew Research Center found that “seven-in-ten Americans say that, for a man or a woman to live a fulfilling life, being married is either essential or is important but not essential. This includes 16% who say this is essential for a man and 17% who say it’s essential for a woman; 54% say being married is important, but not essential, for men and women.”³⁴ In 2007, Wendy L. Morris published a study linking negative attitudes about single people directly to discriminatory behavior.³⁵ In the study, rental agents and undergraduate students read rental property applications that included married couples and single applicants.³⁶ The participants largely favored married couples over singles, citing marital status as a key influence on their decision.³⁷

While this Article primarily underlines the tax implications of being single in America, it is well noted that the negative opinions

28. Leong, *supra* note 5, at 1385.

29. *Id.* at 1373.

30. Ruth Colker, *The Freedom To Choose to Marry*, 30 COLUM. J. GENDER & L. 383, 399–400 (2016).

31. See *Obergefell v. Hodges*, 576 U.S. 644, 681 (2015).

32. *Id.*

33. Juliana Menasce Horowitz et al., *Public Views of Marriage and Cohabitation*, PEW RESEARCH CENTER (Nov. 6, 2019), <https://www.pewresearch.org/social-trends/2019/11/06/public-views-of-marriage-and-cohabitation>.

34. *Id.*

35. See Morris, *supra* note 19, at 457.

36. *Id.* at 463–64.

37. *Id.* at 465 (“In fact, in all four experiments, the reason most often offered for preferring the married couple was simply that they were married.”).

associated with unpartnered Americans permeates into other parts of the law and society. Marriage has long served as the catalyst that propels the continued evolution of a people. With this responsibility, it has gained an incomparable amount of respect from citizens and lawmakers. But this esteemed view of such a profound union undoubtedly influences the interactions amongst different social groups and the laws that govern them. The next section discusses how lawmakers and their sentiments towards single people allow them to prioritize and group the marital majority against the needs of single people while contributing to their absence from the legal system.

II. LUMP THE SINGLES OVER THERE

Given the economic and marital makeup of the United States, it is easy to see why legislators and regulators have pitched decades of one-sided solutions that disadvantages singles. The prevailing efficiency theory in current tax policy promotes an increase in tax-favored behavior, such as marriage, at the expense of unfavored tax behavior in hopes that eventually, the after-tax benefits of both will equal out.³⁸ But supporters of modern equity theory do not believe that any one group should bear a larger burden than the other for the sake of raising revenue.³⁹

Sociological ingroup theory identifies the presence of two social groups: “ingroups”—those identified by specific characteristics or values that define a particular identity—and “outgroups”—those perceived as not belonging to that shared identity.⁴⁰ Socially, members of ingroups, who have positive identities related to religion, sexuality, partnerships, and parenthood, commonly unite around shared preferences and advocate for policies that support these interests. Naturally, this advocacy often marginalizes outgroup members.⁴¹ Clearly, such categorization carries consequences—not just for the person or thing categorized, but also for those who share the category, and for those who do not.⁴² The consequences can be easily addressed by making classifications more encompassing.⁴³ Making categories and selections more encompassing makes them larger in size, more durable, and more attractive.⁴⁴

When looking at America’s societal make-up, singlism itself presents a unique “lump” highlighting the social and legal constraints

38. Boris I. Bittker, *Equity, Efficiency, and Income Tax Theory: Do Misallocations Drive Out Inequities?*, 16 SAN DIEGO L. REV. 735, 738 (1979).

39. See generally Edward J. McCaffery, *The Burdens of Benefits*, 44 VILL. L. REV. 445 (1999).

40. Leong, *supra* note 5, at 1374.

41. *Id.*

42. Lee Anne Fennell, *Sizing Up Categories*, 22 PUB. L. AND LEGAL THEORY WORKING PAPER SERIES 1, 2 (2020).

43. *Id.* at 3.

44. *Id.*

that impact how goods are produced or supplied, and laws are constructed. Taxonomists use “lumper” to describe a person or entity that attaches importance to similarities rather than differences in classification or analysis and favors inclusive categories.⁴⁵ Conversely, some of the items in a particular lump could also be subject to “splitting,” thus grouping them based on their distinct characteristics.⁴⁶ For instance, Golden Retrievers and Labrador Retrievers can be lumped together based on their key similarities but can also be split when comparing them to wolves or bears. “Lumping and splitting are, in fact, complementary since they are both necessary for carving islands of meaning out of reality.”⁴⁷ Socially, we create these mental clusters and lumps so that we can understand how to interact with others.⁴⁸

Often, Americans are grouped into legal lumps that help us identify what type of behavior is “legally” permissible or impermissible in the United States. For example, a one child minimum for a child tax credit can make taxes lump for reasons that stem from societal judgment.⁴⁹ As discussed here, the tax code lumps singles for reasons that stem from social biases and opinions that control and influence family behavior and the tax code.⁵⁰ Likewise, family relationships can alter behavioral responses to taxation. For instance, family roles and opportunities for home-making can alter the effective wage schedule that individuals face for different tax activities.⁵¹ Understanding the concept of lumping and splitting is essential to understanding how we choose which products to buy at the grocery store or how we determine which government benefits apply to a specific household.⁵² “How we actually lump ‘similar’ objects in such mental clusters and split ‘different’ clusters from one another is thus critical for understanding how we generally organize the world in our minds.”⁵³ But we underestimate how influential a society’s most well-respected

45. Charles Kindleberger, *Lumpers and Splitters in Economics, a Note*, 44 THE AMERICAN ECONOMIST 88, 88 (2000).

46. Eviatar Zerubavel, *Lumping and Splitting: Notes on Social Classification*, 11 SOC. F. 421, 424 (1996) (observing that categorization is a type of lumping); see also Letter from Charles Robert Darwin to Joseph Dalton Hooker, Darwin Correspondence Project (Aug. 1, 1857), <https://www.darwinproject.ac.uk/letter/DCP-LETT-2130.xml> (Charles Darwin was one of the earlier scholars to discuss and define the concept of “lumping” and “splitting”).

47. *Id.* at 422.

48. See *id.* at 423.

49. Lee Anne Fennell, SLICES AND LUMPS 18 (2019).

50. See Edward McCaffery, *Where’s the Sex in Fiscal Sociology? Taxation and Gender in Comparative Perspective*, USC CTR. IN LAW, ECON. AND ORG., at 4 (2008).

51. Alstott, *supra* note 10, at 740.

52. See Zerubavel, *supra* note 46, at 430.

53. *Id.*

lumpers, such as politicians and businessmen use their interpretations of society's clusters and to influence how minority groups experience society and the law.⁵⁴

Lee Anne Fennell's scholarship discusses the concerning relationship between social welfare, equity, and fairness and uses lumping to illustrate the impacts of social-economic categorization and their permeations within American economic markets and government policy.⁵⁵ Legal constraints exist in other areas of the law, such as levels of constitutional scrutiny that require a showing of less restrictive alternative, that limits regulators' ability to craft regulatory bundles.⁵⁶ "Nonetheless, lawmakers and regulators often have considerable discretion to lump and split."⁵⁷ Lumping also demonstrates how the needs of single people are often sacrificed for an economy that efficiently caters to the family unit, resulting in a discriminatory impact and exclusion from the law and the economic market.⁵⁸ "Non-disabled childless adults are the emblematic 'undeserving poor' and are excluded from meaningful support under nearly all social safety-net programs."⁵⁹

Previous scholarship addresses the usual "outsider" groups such as feminists, racial minorities, and sexual minorities, who are often victims of harmful business conduct because their concerns are not included in mainstream social norms and objectives.⁶⁰ Borrowing from feminist thought, "excluded voice" theory recognizes that mainstream frameworks characterized as objective are actually biased to favor those in power.⁶¹ "In particular, the concept of the "excluded voice" demonstrates how the legal system's administration of justice fails to consider the subjective experiences of those without power."⁶² In describing the fairytale system afforded to those who live on the more beneficial side of the law, McCaffery labels these power groups as "the fortunate few in their castles" who have had

54. See generally Viviana A. Zelizer, *ECONOMIC LIVES: HOW CULTURE SHAPES THE ECONOMY* (2010); see also Eviatar Zerubavel, *SOCIAL MINDSCAPES: AN INVITATION TO COGNITIVE SOCIOLOGY* (1997).

55. See Fennell, *supra* note 42, at 2-3.

56. Fennell, *supra* note 42, at 1.

57. *Id.*

58. Michael C. Pollack, *Lumping, Fairness, and Single People*, U. CHI. L. REV. ONLINE 27, 27 (2020); see generally Fennell, *supra* note 42.

59. Ariel J. Kleiman, *Revolutionizing Redistribution: Tax Credits and The American Rescue Plan*, 131 YALE L.J. FORUM 535, 559 (2021); see also Kristina Cooke et al., *The Undeserving Poor*, *THE ATLANTIC* (Dec. 20, 2012), available at <https://www.theatlantic.com/business/archive/2012/12/the-undeserving-poor/266507> [<https://perma.cc/MV39-YA4J>] (describing the decline in safety-net support for able bodied adults without dependents); Adam Palasciano, *3 Reasons It's So Expensive To Be Single in America*, NASDAQ (Nov. 6, 2023, 1:18 PM), <https://www.nasdaq.com/articles/3-reasons-its-so-expensive-to-be-single-in-america> ("One other reason that it's more difficult financially for singles is that there's no financial safety net from a spouse or partner.").

60. Barbara Ann White, *Economic Efficiency and the Parameters of Fairness: A Marriage of Marketplace Morals and the Ethic of Care*, 15 CORNELL J.L. & PUB. POL'Y 1, 9-10 (2005).

61. *Id.* at 13.

62. *Id.*

the privilege of benefiting from “a socioeconomic system that they or people like them set up, with their cases in mind.”⁶³ Once the legal system crafts a rule or policy that achieves measurable justice amongst the majority, it tends to also apply that same rule to minority groups with different characteristics.⁶⁴ But instead of receiving the same benefits as the majority from this shared rule, it creates burdens for non-essential groups and members of society.⁶⁵ One way to amplify the excluded voice of singles is to “recognize inequalities in the balance of power between those whose voice is dominant and those whose voice is ‘excluded’ and to take steps to equalize that imbalance in the decision process.”⁶⁶

“A tax is just or fair only for a particular society and only to the extent that it supports and furthers the normative goals of that society.”⁶⁷ Sometimes the law itself makes demands that disproportionately impose costs on minority social groups, like single people. When you consider constructed and legal lumping, “both private parties and policy makers may intentionally construct lumps that are hard to break apart in order to force people to make choices that are bundled, take it or leave it propositions.”⁶⁸ Singles are often faced with these take it or leave it propositions when it comes to taxes, housing, and food, just to name a few. “When you add it all up, maintaining a single-person household doesn’t cost exactly half of a two-person household . . . it costs more to be on your own that it would for you to share costs with a partner.”⁶⁹

This Article explains how taxes can be used to minimize the financial inconveniences that singles experience in the tax code and other areas of life. The next section discusses how the tax code, through the “singles tax penalty” creates a lump that impacts their financial stability and creates further social judgment and isolation of single households. It begins with a discussion of tax terminology that categorizes the different types of marital bonuses and penalties embedded in the tax code. It then follows with a brief discussion of how these terms are used to explain the “tax trilemma” and the longstanding struggle to balance the inequities produced from these bonuses and penalties. This leads into a historical overview of the tax code and how lawmakers have attempted to tackle the trilemma through tax policies that favor and encourage family behavior over individual behavior. It concludes with a literature review of the policies and reforms proposed by tax equity scholars and highlights how

63. Edward J. McCaffery, *The Burdens of Benefits*, 44 VILL. L. REV. 445, 492 (1999).

64. *See id.*

65. *Id.*

66. White, *supra* note 60, at 15.

67. Marjorie E. Kornhauser, *Equality, Liberty, and a Fair Income Tax*, 23 FORDHAM URB. L.J. 607, 608 (1996).

68. Fennell, *supra* note 49, at 18.

69. Kamaron McNair, *Why It's So Expensive To Be Single In the U.S.*, CNBC (Oct. 28, 2023, 9:00 AM), <https://www.cnbc.com/2023/10/28/why-its-so-expensive-to-be-single-in-the-us.html>.

even scholars narrow their focus on solving the trilemma for married couples.

III. SINGLES GET TAXED, TOO?

A. Marital Tax Terminology

Our progressive tax structure operates on the notion that a person's relative ability to pay should be reflective of their income tax rate.⁷⁰ To capture each household's relative ability to pay, Congress imposes different tax liabilities to create some balance in tax treatment amongst different families and filers.⁷¹ "The household—the married couple or the single individual—is the basic tax-paying unit."⁷² However, these distinct rates and differing tax liabilities create tax bonuses and penalties for both married and single filers.

In 2003, there were over 1,138 U.S. federal statutory provisions in the tax code that considered marital status as a factor in determining benefits, rights and privileges.⁷³ In this Article, the terms "marriage bonus" or "marriage penalty" describe the comparative tax burdens of two couples who are similarly situated, except that one is married and filing jointly, and the other is unmarried, with each person filing an individual return. "A couple incurs a marriage penalty if the two pay more income tax filing as a married couple than they would pay if they were a couple filing as individuals."⁷⁴ "Conversely, a couple receives a marriage bonus if they pay less tax filing as a couple than they would if they were single."⁷⁵ Marriage bonuses usually arise when two individuals with disparate incomes marry.⁷⁶ In some cases, the married couple with both spouses working and filing jointly will pay less than an unmarried couple filing separately—a marriage bonus.⁷⁷ For a married couple with different earnings, or one spouse being the primary breadwinner, the higher-earning spouse is subject to a lower marginal tax bracket as a result of the marriage, thus reducing their combined tax burdens and resulting in a marriage bonus.⁷⁸ "The choice of a [couple] as a taxable unit, combined with progressive rate schedules, the standard deduction, and

70. Betz, *supra* note 7, at 678–79 n.67.

71. ROBERT WILLIAMS ET AL., FOR BETTER OR FOR WORSE: MARRIAGE AND THE FEDERAL INCOME TAX, at xiii (1997).

72. *Id.*

73. See Letter from Dayna K. Shah, Assoc. Gen. Couns., U.S. Gen. Acct. Off. (Jan. 23, 2004) (on file with GAO).

74. *What Are Marriage Penalties and Bonuses?*, TAX POL'Y CTR., <https://taxpolicycenter.org/briefing-book/what-are-marriage-penalties-and-bonuses> (last visited Mar. 10, 2025); Kahng, *supra* note 22, at 656.

75. *What Are Marriage Penalties and Bonuses?*, *supra* note 74.

76. Kyle Pomerleau, *Understanding the Marriage Penalty and Marriage Bonus*, THE TAX FOUND., (Apr. 23, 2015), <https://taxfoundation.org/research/all/federal/understanding-marriage-penalty-and-marriage-bonus>.

77. James Alm, et al., *Policy Watch: The Marriage Penalty*, 13 J. ECON. PERSPECTIVES 193, 195 (1999).

78. *Id.* at 195.

in some cases the earned income credit, produces either a marriage tax bonus or a marriage tax penalty, depending upon a couple's particular circumstances."⁷⁹ "Introducing children, unearned income and itemized deductions into the calculations can introduce measurement errors that reflect these basic differences in the economic characteristics of the filing units rather than the . . . tax penalties and bonuses that arise because of the structural components of the tax system."⁸⁰ In 1996, the Congressional Budget Office reported "[m]arriage [income tax] penalties totaled about \$29 billion, and bonuses added up to roughly \$33 billion, for a net bonus of \$4 billion."⁸¹

"However, understanding the singles tax requires answering [the question]: How is an individual taxed in comparison to a married couple with the same income?"⁸² In the realm of taxes, many describe the single's tax penalty in one of two ways: (1) a comparison of the relative tax burden of a married one-earner couple versus a two-earner married couple and; (2) a comparison of the relative tax burden of a married couple and an unmarried individual.⁸³ The singles tax can also be defined as "the difference in tax liability between a single individual and a married household with identical household income and other characteristics (e.g. deductions)."⁸⁴ Under these latter descriptions, the single's penalty results in the unmarried, single earner, paying more than the married couple, due to the differing tax rates and income splitting introduced in the 1949 Revenue Act.⁸⁵ In 1996, Alm and Whittington attempted to quantify the single tax penalty and estimated that singles paid an aggregate of nearly \$47 billion in income taxes.⁸⁶ Alm and Whittington noted that married couples with equal incomes face the same income tax liability regardless of how the income is split amongst the partners.⁸⁷ Using some simplifying assumptions, they found that in 2001, the single person's penalty ranged from \$0 to about \$7800.⁸⁸ When calculating the taxable income for a married couple, they applied the standard deduction and two personal exemptions allowed from the 2001 tax year.⁸⁹ For the taxable income of a single individual, they applied the standard deduction and one personal exemption.⁹⁰ Their tax liability cal-

79. Nancy J. Knauer, *Heteronormativity and Federal Tax Policy*, 101 W. VA. L. REV. 129, 145 (1998).

80. GREGG A. ESENWEIN, CONG. RSCH. SERV., RL30800, THE FEDERAL INCOME TAX AND THE TREATMENT OF MARRIED COUPLES: BACKGROUND AND ANALYSIS (Jan. 11, 2001).

81. Knauer, *supra* note 79, at 145 (citing Robert Williams, *supra* note 71) (alterations in original).

82. Alm, et al., *supra* note 6, at 72.

83. Kahng, *supra* note 22, at 656.

84. Alm et al., *supra* note 6, at 72.

85. *Id.* at 71.

86. *Id.* at 81; Kahng, *supra* note 22, at 659.

87. Alm et al., *supra* note 6, at 73.

88. Kahng, *supra* note 22, at 659.

89. Alm et al., *supra* note 77, at 194.

90. *See id.*

culations also included other relevant tax features where appropriate, such as the EITC, but noticed that some features significantly modified some of their calculations, such as the main poverty transfers for eligible households and Temporary Aid to Need Families (“TANF”) transfers.⁹¹ For other singles tax calculations, they also examined the effects of using itemized deductions versus standard deductions.⁹²

In 2013, authors Lisa Arnold and Christina Campbell conducted a detailed analysis published in *The Atlantic*, putting Alm and Whittington’s numbers in a more modern perspective.⁹³ They calculated the income taxes and other economic benefits, like Social Security and found that over the course of her lifetime, a single woman pays between \$39,000 and \$155,000 more in income taxes than a married woman.⁹⁴ Broken down even further, the married woman would pay about \$4,000 less in taxes than the single woman, adding up to \$155,000 over 40 years.⁹⁵ Why is it so hard for Congress to create an income tax system that does not penalize filers based on their marital status? The following section briefly outlines three of Congress’ overarching tax goals and how their intersections create insurmountable challenges for marital and singles tax reform.

B. The Love Triangle

Boris I. Bittker, an early scholar of marriage tax neutrality, identified the longstanding tension between the individual and the family unit and whether people should be taxed individually or based on their family composition.⁹⁶ But relieving this tension is difficult, and nearly impossible, due to the “marriage tax trilemma.”⁹⁷ The trilemma is often presented as an equation expressing the impossibility of achieving a progressive tax system, while also achieving couples neutrality by imposing the same tax liability across all married couples with the same income, while also appreciating marriage neutrality.⁹⁸ Following an illustration used by various colleagues: Imagine two couples: Alice and Blair, Carl and Dana. Each couple has the same combined income of \$100,000. But Alice and Blair each make \$50,000, while Carl makes \$100,000, and Dana is unemployed with

91. *See id.*

92. *See id.* at 195.

93. *See* Lisa Arnold & Christina Campbell, *The High Price of Being Single in America*, THE ATLANTIC, (Jan. 14, 2013), <https://www.theatlantic.com/sexes/archive/2013/01/the-high-price-of-being-single-in-america/267043>.

94. *Id.* (based on 2011 tax rates).

95. *Id.*

96. *See* Boris I. Bittker, *Federal Income Taxation and the Family*, 27 STAN. L. REV. 1389, 1399-1414 (1975).

97. Daniel Hemel, *Beyond the Marriage Tax Trilemma*, 54 WAKE FOREST L. REV. 661, 663 (2019); *see* Bittker, *supra* note 96, at 1443.

98. *See* Hemel, *supra* note 97.

zero income.⁹⁹ They are all subject to a two-bracket income tax schedule with a 20% rate on the first \$50,000 of income, and a 40% rate on income above \$50,000. If the couples are unmarried, then under a progressive rate structure the combined tax liabilities of Alice and Blair will be less than those of Carl and Dana. But now suppose the two couples are married. Couples neutrality requires that both couples have the same tax liability because they have equal earnings as a couple. But marriage neutrality requires that each couple pay the same amount of income tax they paid when they were single. This presents a conflict because under the progressive system, Alice and Blair paid less than Carl and Dana. Thus, there cannot be a progressive system that supports both marriage neutrality and a progressive tax system because Carl and Dana would pay more than Alice and Blair if married couples paid the same amount of tax they paid as single individuals.

The traditional goals of tax policy are represented as “equity, efficiency, and simplicity.”¹⁰⁰ But like the trilemma, tax policy has struggled to meet all three goals consistently and simultaneously.¹⁰¹ To further break down the goals: “Simplicity is the characteristic of a tax which makes the tax determinable for each taxpayer from a few readily ascertainable facts.”¹⁰² Yet, the thousands of intertwined rules of the Internal Revenue Code handicap lawmakers’ ability to develop rules that reflect simplicity and efficiency. As others have noted, an efficient tax policy is one that raises revenue.¹⁰³ But others have also described an efficient policy as one that does not influence taxpayers to modify their circumstances in socially undesirable ways.¹⁰⁴ Equity, a term often interchanged with fairness, represents balance. Tax equity tries to reduce iniquitous practices and achieve fair wealth distribution with the goal of reducing the unequal distribution of income and wealth that results from the normal operation of a market-based economy.¹⁰⁵ “Traditional tax policy often seems stuck in a rut of static, distributive thinking, typically asking who ‘wins’ and who ‘loses’—that is, who presently pays more dollars out-of-pocket to the fisc—from a putative tax reform.”¹⁰⁶ “Many legal outcomes are all or nothing - a defendant is guilty or not guilty, liable or

99. See Yair Listokin, *Taxation and Marriage: A Reappraisal*, 67 TAX L. REV. 185, 186–87 (2014); Hemel, *supra* note 97, at 688.

100. Roberta F. Mann, *Economists are from Mercury, Policymakers are from Saturn: The Tax Policy Implications of Communication Failure*, 5 WM. & MARY POL. REV. 1, 5 (2014).

101. See Edward Yorio, *Federal Income Tax Rulemaking: An Economic Approach*, 51 FORDHAM L. REV. 1, 2 (1982).

102. Stanley S. Surrey & Gerard M. Brannon, *Simplification and Equity as Goals of Tax Policy*, 9 WM. & MARY L. REV. 915, 915 (1968).

103. Reuven S. Avi-Yonah, *The Three Goals of Taxation*, 60 TAX L. REV. 1, 3 (2006); see also Linda Sugin, *A Philosophical Objection to the Optimal Tax Model*, 64 TAX L. REV. 229, 299 (2011).

104. Surrey & Brannon, *supra* note 102, at 915–16.

105. *Id.*

106. McCaffery, *supra* note 4, at 986.

not liable”¹⁰⁷ In making these binary choices, law must also decide the process of selecting a “winner” of the legal outcome, using a fixed set or supply of legal rules, such as the rules of evidence.¹⁰⁸ Such a narrow emphasis on winners and losers, rather than a comprehensive theory of income taxation, has led policymakers to frame issues around how different provisions affect incentives and disincentives for economic growth. This focus on the economic benefits and burdens of tax reform created an opportunity for demands for preferential treatment.

In the early 1970s, equity theorists soon began substituting equity for economic efficiency by comparing pretax economic incomes to determine whether taxpayers are equals.¹⁰⁹ But traditional tax equity scholars and efficiency theorists often conflict because efficiency theorists base their proposals around the misallocation of resources, while equity theorists blame tax allocations for imposing tax burdens and penalties.¹¹⁰ The efficiency theorists get the big picture: “tax laws are well suited to a system of individualized incentives.”¹¹¹ But to assess the fairness of this progressive structure, most equity tax scholars and analysts always boil the problem down to two key principles: vertical equity and horizontal equity.¹¹² Vertical equity observes the changes in tax burdens as income rises for an otherwise identical family, i.e. a progressive rate structure; whereas horizontal equity insists that similarly situated individuals face similar tax burdens (e.g., couples equity).¹¹³ “The idea that the tax rate should rise as income increases has long been a settled vertical principle of the federal tax system.”¹¹⁴ “While tax theorists agree that those that are equal should bear equal tax burdens, they disagree as to how to establish who is equal.”¹¹⁵ A pragmatic approach is one way to satisfy these competing equitable interests, contrary to other suggested approaches.¹¹⁶ But these approaches tend to prioritize revenue-raising efficiency at the expense of competing equitable objectives and emphasize the retention of the family as the taxable unit.¹¹⁷

Between 1948 and 1969, the trilemma presented unique tax liabilities that would contribute to the system’s imbalance and generate

107. Fennell, *supra* note 49, at 25.

108. *Id.*

109. See Sugin, *supra* note 103, at 229.

110. Bittker, *supra* note 38, at 737.

111. McCaffery, *supra* note 4, at 986.

112. JANE F. GRAVELLE, CONG. RSCH. SERV., RL33755, FEDERAL INCOME TAX TREATMENT OF THE FAMILY 9 (2016); Bittker, *supra* note 38, at 735–36.

113. Gravelle, *supra* note 112, at 9–10.

114. Jeannette Anderson Winn & Marshall Winn, *Till Death Do We Split: Married Couples and single Persons Under The Individual Income Tax*, 34 S.C. L. REV. 829, 839 (1983).

115. Nancy Shurtz, *A Critical View of Traditional Tax Policy Theory: A Pragmatic Alternative*, 31 VILL. L. REV. 1665, 1669 (1986).

116. *Id.* at 1677.

117. See *id.* at 1677–78, 1684.

marriage bonuses and penalties.¹¹⁸ But even prior to 1948, Congress has tried to tame the demographic uproar surrounding marriage tax penalties and bonuses, with nonmarital tax penalties in the shadow to be dealt with . . . eventually.

C. A Growing Problem

The Revenue Act of 1913 was the first federal income tax that supported the concept of the individual as the taxable unit, with earned income attributable to the earner and property income attributable to the title holder.¹¹⁹ However, community property jurisdictions exercised this option in a way that was unavailable in non-community property jurisdictions. Originally, this gave married couples in community property states an advantage over married couples in common law states because this allowed married couples to file separate returns, provided that each spouse had income.¹²⁰ In *Poe v. Seaborn*, Seaborn, a married resident of Washington state, successfully argued that because he and his wife lived in a community property jurisdiction and all of their real and personal property acquired during the marriage constituted community property. He and his wife were permitted to divide one half of the total community income as gross income, requiring them to file separate income tax returns pursuant to the Revenue Act.¹²¹ Seaborn argued that married couples should be taxed and treated as two single people, as opposed to filing jointly.¹²² This concept known as “income-splitting,” is that each spouse’s half of the income received, regardless of which spouse actually earned the income, should be taxed separately according to the appropriate tax bracket.¹²³ However, in *Lucas v. Earl*, the Court ruled under similar facts, that a spouse cannot assign or split half of his income with their spouse to be taxed separately under the tax structure.¹²⁴ Rather, all income earned by that spouse is first vested in that spouse, and such earnings are only taxable to them.¹²⁵ Under *Lucas*, if a married couple only has one earner, only their income may pass through the tax bracket progression, they cannot split half of that income with their spouse, like Mr. Seaborn and his wife.¹²⁶ *Poe* had an impact not only on the Supreme Court, but individual states also codified several elective community-property tax laws in response to the rising popularity of income splitting.¹²⁷

118. Lawrence Zelenak, *Doing Something About Marriage Penalties: A Guide for the Perplexed*, 54 TAX L. REV. 1, 7 (2000).

119. Winn & Winn, *supra* note 114, at 831.

120. See Esenwein, *supra* note 80, at 4; see also McCaffery, *supra* note 4, at 989-90.

121. *Poe v. Seaborn*, 282 U.S. 101, 108-09 (1930).

122. *Id.* at 109.

123. Kahng, *supra* note 22, at 654.

124. *Lucas v. Earl*, 281 U.S. 111, 113-14 (1930).

125. *Id.* at 114-15.

126. *Id.*

127. Alstott, *supra* note 10, at 704.

The Revenue Act of 1948 put an end to the rift between the two couple types.¹²⁸ From a social science perspective, Congress's shift to couples tax equity in 1948 was a strategic sociological policy decision to accommodate a political climate shift amongst married couples.¹²⁹ The joint tax schedule is one of the first examples of how United States income tax policy influences marital policy, and how marital behavior influences tax legislation.¹³⁰ But lawmakers did not want to regulate or influence marriage policy in this way.¹³¹ "The historical development of the current tax rate structure raises significant doubt that the discrimination between married and single tax payer is indicative of any conscious Congressional plan or policy."¹³² In 1948, Congress's true goals were: (1) raising revenue and (2) equalizing the tax treatment between married tax payers in community property states and married tax payers in non-community property states.¹³³ "Supporters of the 1948 Act justified the unequal treatment of unmarried taxpayers by focusing on the greater financial responsibilities of married couples."¹³⁴

To capture the principles of a progressive rate structure and equal taxation of equal-earner couples, the Act extended the benefits of income splitting to all married couples by creating two tax schedules, one for married couples filing joint returns and one for those filing separately, and setting the amount for each tax bracket at double the amount for single returns.¹³⁵ Under this approach, married couples filing jointly were allowed to aggregate and divide their income in half.¹³⁶ In effect, this meant that all married couples were taxed as two single people, and taxed all married couples the same regardless of the split of their income.¹³⁷ In the context of the trilemma, this seems like a win for Congress because it enforces couples neutrality. But here is where we also see the first example of the "singles tax penalty"; while this tax regime provided parity to all married filers, it significantly increased the tax burden of single individuals relative to married couples.¹³⁸ This also created the first "marriage bonus" where a married worker with a stay-at-home spouse also had

128. Kahng, *supra* note 22, at 653.

129. See Alstott, *supra* note 10, at 703; see also Lawrence Zelenak, *Marriage and the Income Tax*, 67 S.CAL. L. REV. 339, 346–47 (1994); see also Stanley S. Surrey, *Federal Taxation of the Family—The Revenue Act of 1948*, 61 HARV. L. REV. 1097, 1104–05 (1948); see also Patricia A. Cain, *Taxing Families Fairly*, 48 SANTA CLARA L. REV. 805, 817 (2008).

130. Betz, *supra* note 7, at 668.

131. Zelenak, *supra* note 118, at 4.

132. Betz, *supra* note 7, at 678.

133. See R. C. Vaughn, *Estate and Gift Tax Amendments of the Revenue Act of 1948*, 27 N. C. L. REV. 18, 18 (1948).

134. Winn & Winn, *supra* note 114, at 833.

135. Kahng, *supra* note 22, at 654; Esenwein, *supra* note 80, at 5.

136. Cain, *supra* note 129, at 817; see also Bittker, *supra* note 96, at 1412–13; Daniel L. Simmons, *Is it Really Reform? A Theoretical Overview of the 1986 Tax Reform Act*, 1987 BYU L. REV. 151, 211 (1987).

137. Esenwein, *supra* note 80, at 5.

138. *Id.*

a lower tax liability than both married couples filing separately and single filers, including widows, widowers, and others who supported a family.¹³⁹ Accordingly, the bonus also sheds light on Congress's sentiments and preferences for single-earner marriages.¹⁴⁰ With the joint tax return, if a husband with a high income files jointly with his wife who has a significantly lower income, the joint filing rates allow them to incur a low tax penalty, despite the wife's additional income.¹⁴¹ The additional income is usually not enough to push the couple's combined income into a higher tax bracket and because of the wider brackets, the couple is privy to a low tax bill.¹⁴² In one of his early articles, respected tax scholar, Stanley Surrey, was one of the first to check the questionable features of the Act and what it meant for the American family.¹⁴³ Surrey commended the congressional efforts towards tax reduction, but not without citing the "fundamental changes in the federal taxation of the family group, which in large part were barely considered by the Congress and practically ignored elsewhere except in initiated legal circles."¹⁴⁴

But over the next several decades, Congress would continue to ratify the tax code to mitigate the fallout from *Poe* and *Lucas* and the embedded inequities of income splitting.¹⁴⁵ In 1951, Congress created the "head of household" filing status, for single tax payers with dependents.¹⁴⁶ The dependents exemption combined with the personal exemption provided a larger tax benefit for a single head of household than for a married couple with the same income.¹⁴⁷ However, this tax structure still partially favored and emphasized equal taxation of couples with equal incomes rather than marriage neutrality.¹⁴⁸ By 1951, single filers were still taxed at twenty to forty percent higher rates than joint filers, leaving singles with only one remedy to reduce such a heavy burden: get married.¹⁴⁹

In response, Congress passed the Revenue Act of 1969 and attempted to address the singles tax penalty by narrowing the tax brackets for married taxpayers and adding a separate rate schedule

139. Kahng, *supra* note 22, at 654–55.

140. Marjorie E. Kornhauser, *Wedded to the Joint Return: Culture and the Persistence of the Marital Unit in the American Income Tax*, 11 THEORETICAL INQUIRIES L. 631, 650 (2010).

141. See generally *id.* at 645 (explaining that since married taxpayers could combine their incomes and then split the total evenly between the two, they essentially had tax brackets that were twice as large as those which single taxpayers had).

142. See Winn & Winn, *supra* note 114, at 833

143. See Surrey, *supra* note 129, at 1097.

144. Surrey, *supra* note 129, at 1098.

145. See Alstott, *supra* note 10, at 704–05; Kahng, *supra* note 22, at 655.

146. Kahng, *supra* note 22, at 655; Revenue Act of 1951, Pub. L. No. 183, § 301, 65 Stat. 452, 480 (1951).

147. § 301, 65 Stat. at 480; Winn & Winn, *supra* note 114, at 834.

148. Esenwein, *supra* note 80, at 5.

149. See Esenwein, *supra* note 80, at 5; Winn & Winn, *supra* note 114, at 834.

for single taxpayers, reducing the tax rate schedule of single returners and offering the benefits of splitting to single filers.¹⁵⁰ This legislation guaranteed that the difference in tax liability between single and joint filers would not exceed 20%.¹⁵¹ However, the penalty remained, and singles still paid more than a married couple with the same income, despite the 20% cap. Unfortunately, this also introduced the “marriage penalty” because under the 1969 Act, two-earner couples who filed separately were no longer permitted to use the tax tables for singles, which posed a threat to marriage neutrality.¹⁵² Consequently, these two-earner couples were forced to pay more in federal income tax if they filed a joint return than if they had filed as two singles with a comparable income.¹⁵³ But Congress did not see it as a problem *per se*, but rather a predictable consequence. The Joint Committee on Taxation identified the penalty as a “necessary by-product of singles relief” and found it to be more than appropriate since the economies of scale of two people with separate incomes maintaining a single household drastically increased their ability to pay, compared to a single household.¹⁵⁴ The concept behind economies of scale is that even if a household of two (or more) cannot live as cheaply as one, there is a benefit to sharing within the household. Economies of scale reveal just how easy it is for couples to engage in marital and family pooling. In 1972, former Assistant Secretary of the Treasury Department, Edwin Cohen, also cited marital resources and ability to pay as a justification for the inequitable qualities of the tax system as a result of the Revenue Act of 1969.¹⁵⁵ The Tax Reform Act of 1986 further shifted legislative focus from income tax neutrality for married filers and single filers to reducing marriage tax penalties.¹⁵⁶ It dramatically lowered tax rates and introduced new marital-specific provisions governing contributions to

150. Ann F. Thomas, *Marriage and the Income Tax Yesterday, Today, and Tomorrow: A Primer and Legislative Scorecard*, 16 N.Y. L. SCH. J. HUM. RTS. 1, 52–53 (1999); see generally Tax Reform Act of 1969, Pub. L. No. 91-172, § 803, 83 Stat. 487.

151. See § 803, 83 Stat. at 678–85; Winn & Winn, *supra* note 114; Esenwein, *supra* note 80, at 5.

152. Winn & Winn, *supra* note 114, at 834–35.

153. Esenwein, *supra* note 80; U.S. Gov’t Accountability Off., GAO-96-175, *Income Tax Treatment of Married and Single Individuals* 2 n.4 (1996).

154. Zelenak, *supra* note 118, at 9 n.45; STAFF OF THE JOINT COMM. ON TAX’N, 91ST CONG., GENERAL EXPLANATION OF THE TAX REFORM ACT OF 1969 223 (Comm. Print 1970).

155. STAFF OF JOINT COMM. ON INTERNAL REVENUE TAX’N, 92D CONG., SUMMARY OF TESTIMONY ON TAX TREATMENT OF SINGLE PERS.’S AND MARRIED PERS.’S WHERE BOTH SPOUSES ARE WORKING PUB. HEARINGS ON APRIL 10 AND MAY 1, 1972 HELD BY THE COMM. ON WAYS AND MEANS 10–11 (Comm. Print 1972) [hereinafter Cohen Testimony] (Edwin S. Cohen stated that “the 1969 Act would result . . . in a married couple filing a joint return paying more tax than two single persons with the same total income, and that this was justified on the basis that the married couple’s expenses are likely to be less than those of two single persons maintaining separate households.”).

156. See, e.g., Economic Recovery Tax Act of 1981, Pub. L. No. 97-34 § 103, 95 Stat. 172, 187.

individual retirement plans (“IRAs”) for employees covered by employee funded pension plans.¹⁵⁷

Legislators maintained their dedication to this area of tax reform and preference for families and couples well into the 1990s, starting with the Omnibus Budget Reconciliation Act of 1990.¹⁵⁸ In 1993, Congress expanded the EITC to include childless single filers, but this actually increased penalties for certain married couples.¹⁵⁹ The Balanced Budget Act of 1995 and the Taxpayer Relief Act of 1997 both proposed tax penalty relief in the form of two-earner marital deductions, proposals to increase the standard deduction for joint returns, and proposals to widen the tax bracket.¹⁶⁰ By the late 1990s, marital demographics began to shift again, with more married women entering the workforce, creating a rise in marriage penalties. The rise in marriage penalties hit the media hard and news outlets gave more coverage to these pressing issues.¹⁶¹ At that time, approximately 50% of all married couples were paying a marriage penalty of up to \$4,000 per couple.¹⁶² While in Congress, Republican Representatives David McIntosh and Jerry Weller stepped in to help ease the blow of the rising marriage penalty and proposed two “Marriage Tax Elimination” bills.¹⁶³ H.R. 2456, also known as “McIntosh-Weller I” proposed giving couples the option to file separately and singly, as if they were unmarried, eliminating marriage penalties without hurting marriage bonuses.¹⁶⁴ The second version, “McIntosh-Weller II,” proposed doubling the rate brackets, thereby expanding marriage penalty relief to all married couples.¹⁶⁵

President George W. Bush carried the crusade for marriage tax penalty relief into the early 2000s, promising tax cuts that families would appreciate.¹⁶⁶ The crusade also gained momentum with Congress as legislators remained focused on battling the marriage penalty. The Economic Growth and Tax Relief Reconciliation Act of 2001 brought marriage penalty relief, temporarily broadened the lower

157. Esenwein, *supra* note 80, at 5–6.

158. *See generally* Esenwein, *supra* note 80, at 6.

159. Kornhauser, *supra* note 140, at 647; *see generally* Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 107 Stat. 312.

160. *See* Esenwein, *supra* note 80, at CRS-7.

161. *See* EDWARD J. MCCAFFERY, *TAXING WOMEN* 19 (1997) (noting that from 1980 to 1995, phrase “marriage penalty” appeared in more than 350 articles in New York Times and Washington Post combined).

162. Richard B. Malamud, *Allocation of the Joint Return Marriage Penalty and Bonus*, 15 VA. TAX REV. 489, 493 (1996) (noting that “one recent study reports that 52 percent of the taxpayers who file a joint return pay a marriage penalty while 38 percent receive a marriage bonus.”).

163. *See* H.R. 2456, 105th Cong. (1997); *see also* H.R. 6, 107th Cong. (1999).

164. H.R. 2456.

165. *See* H.R. 3734, 105th Cong. (1997) (suggesting to “eliminate the marriage penalty by providing that the income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts applicable to unmarried individuals.”).

166. JANE F. GRAVELLE, CONG. RSCH. SERV., RL30419, *THE MARRIAGE TAX PENALTY: AN OVERVIEW OF THE ISSUES* CRS-1 (2001).

brackets for joint returns, and increased the standard deduction.¹⁶⁷ It doubled the income range of the 15% tax bracket for joint returns to twice the income range of the tax bracket for single returns.¹⁶⁸ While these changes were set to phase in from 2005 to 2008, the Jobs and Growth Tax Relief Reconciliation Act of 2003 accelerated these changes to begin in 2003.¹⁶⁹ The Working Families Tax Relief Act of 2004 further extended marriage tax penalty relief all the way into 2008.¹⁷⁰ During his tenure, President Barack Obama took immediate action to continue preserving the marriage penalty relief initiated in 2001 by President Bush and passed the American Taxpayer Relief Act of 2012.¹⁷¹

Even with decades of mitigating legislation, married couples in higher brackets were still likely to face some sort of “marriage tax penalty.” With the Tax Cuts and Jobs Act of 2017 (“TCJA”), the penalty was mostly eliminated under the Act but not among high-income earners.¹⁷² At the time, most of the tax brackets for married couples filing jointly were double the single brackets. This disparity expanded the potential for marriage bonuses, allowing some couples to move into lower filing brackets.¹⁷³

But in 2020, Congress began trying to resolve the financial damage that many filers sustained because of the COVID-19 pandemic. In 2021, President Joe Biden signed the American Rescue Plan Act (“ARPA”) and allocated over \$1 trillion to COVID-19 relief and economic recovery.¹⁷⁴ The ARPA provided families with funding and tax credits to weather the economic crisis, including an increase to both the Advance Child Tax Credit and the EITC.¹⁷⁵ Childless and single households especially benefited from the increased EITC, which allowed them to receive just over \$1,500 as a refundable credit.¹⁷⁶ This was triple the amount provided in 2020 and years prior.¹⁷⁷ Though it was short lived, it left a lasting economic impact: over 4 million

167. Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16 (2001).

168. BRENDAN McDERMOTT, CONG. RSCH. SERV., RL34498, FEDERAL INDIVIDUAL INCOME TAX BRACKETS, STANDARD DEDUCTION, AND PERSONAL EXEMPTION 1988 TO 2025 54 (2025).

169. *Id.*

170. *Id.* at 55.

171. *Id.*

172. McNair, *supra* note 69.

173. *What are Marriage Penalties and Bonuses?*, TAX POL’Y CTR., <https://www.taxpolicycenter.org/briefing-book/what-are-marriage-penalties-and-bonuses> (last updated Jan. 2024).

174. Sean Fulmer, *President-Elect Joe Biden Releases \$1.9 Trillion American Rescue Plan*, YALE SCH. OF MGMT. (Jan. 19, 2021), <https://som.yale.edu/blog/president-elect-joe-biden-releases-19-trillion-american-rescue-plan>.

175. *See generally* MARGOT CRANDALL HOLLICK, CONG. RSCH. SERV., IF12025, REFUNDABLE TAX CREDITS FOR FAMILIES IN 2021 1 (2025).

176. Margot Crandall-Hollick et al., *How the American Rescue Plan’s Temporary EITC Expansion Impacted Workers Without Children*, TAX POL’Y CTR. 1, 1 (Sep. 6, 2024), https://taxpolicycenter.org/sites/default/files/2024-10/Final_2021_expanded_EITC_brief_%20reformatted%2009052024.pdf.

177. *Id.* at 3.

young and childless workers “received an average credit of almost \$900 in 2021, a substantial boost in income that reduced hardship.”¹⁷⁸ While it is great that politicians and lawmakers are constantly trying to achieve marital and couples equity in the tax code, the abundance of marital tax legislation reveals that the family unit is the preferred unit. The constant looming of the singles tax penalty puts Americans and the tax code further away from marriage neutrality. Looking at the history of marital tax reform, evidence of legislative concern for singles is scarce. Like their sentiments in 1948, it is not that Congress is completely indifferent to the plight of singles and equitable social welfare, it is just not their priority. But I, along with other scholars referenced below, propose tax incentives that would redirect Congressional attention to more equitable alternatives. In their research, several scholars propose tax policies and reform that would make the progressive structure more equitable across the varying tax brackets and family demographics. The review in the following section focuses on the scholarly development of marriage penalties and bonuses and how others have approached ways to reform or alleviate these features so that the tax system is more equitable.

D. All is Fair in Love, but Not Taxes

Bittker’s research summarized some of the relative factors and justifications for the current inequitable, progressive tax system: an obligation to support two persons, the enjoyment of economies of scale in sharing and pooling housing, food, etc., the benefit of untaxed household services, and the expenses of commuting to work, dressing to suit the job, etc.¹⁷⁹ His article came during a time when constituents and analysts dared to confront the traditional status of marriage and the need for a financially neutral definition of marriage. Bittker challenged lawmakers and tax experts to consider how the tax code should recognize marriage and the family as a social and financial legal entity.¹⁸⁰

In 1951, in the wake of new federal and state tax legislation, Oliver Oldman and Ralph Temple initiated a comparative study of how spousal income should be taxed and the various international views of how to capture these tax allocations and tax burdens.¹⁸¹ Looking at the tax structure of other countries compared to the federal tax schedule at the time, it is irrefutable that economically, taxation of the married couple as a unit is more reasonable than separate taxation of the spouses.¹⁸² “In a system of progressive taxation of each source of income, separate taxation makes sense; but such a system

178. *Id.* at 1.

179. Bittker, *supra* note 96, at 1443.

180. *Id.* at 1391–92.

181. Oliver Oldman & Ralph Temple, *Comparative Analysis of the Taxation of Married Persons*, 12 STAN. L. REV. 585, 585–86 (1960).

182. *Id.* at 603.

is itself irrational.”¹⁸³ To be fair, literally, the authors of the study indicate that separate taxation cannot be based on sexual equality because this ignores economic circumstances, such as joint living.¹⁸⁴ According to Oldman and Temple, an ideal system understands that the ability to pay of a married couple with one income is less than that of a single taxpayer, “since the advantages of joint living are never so great that two can live more cheaply than one.”¹⁸⁵ But single taxpayers overwhelmingly disagreed and had great disdain for the unique singles penalties inadvertently imposed by the tax system. In 1968, Stanley Surrey and Gerard Brannon discussed the complexities of the tax system and its failures to achieve true equity.¹⁸⁶ “To bring out this conflict precisely and yet with simplicity, we may define equity as the characteristics of a tax which make the relative burden on each taxpayer fair in light of all the particular circumstances of each taxpayer.”¹⁸⁷ Following the 1969 Act, Micheal Betz highlighted the implications of the historical events and policies responsible for the 1969 rate structure, the equitable and constitutional problems that stemmed from the structure, and how the rates and tax policies at the time supported the complex and differential treatment of married and single taxpayers.¹⁸⁸

On par with Bittker, Michael Betz, a tax lawyer who has also analyzed the discriminatory treatment of single taxpayers under the federal income tax system, identified some of the political, legal, and historical factors that feed into the disparaging treatment of single taxpayers, but he is adamant that Congress never intended to create such a divide.¹⁸⁹ In 1981, Jeanette Winn recognized Congress’ ever-pressing revenue-raising goal and commended Congress for their efforts to rectify unbalanced residual effects of adjusting tax burdens that support one part of the trilemma over the other while gently criticizing the methods and policies they use to support these changes, ultimately telling Congress that they are dreaming of a system that will never be capable of balancing family equity and revenue raising.¹⁹⁰ “Even when the government’s intention is to use the tax system purely to raise revenue and not to regulate social or economic behavior, the goal of a neutral tax system is elusive, if not unattainable.”¹⁹¹ Yet Daniel Simmons, a tax scholar who offered a theoretical critique of the 1986 Tax Reform Act, was hesitant to recognize the innocence of Congress’ true tax goals, and rightfully so. He challenged the sincerity of the ability to pay standard against its economic incentives and how it motivated the controversial tax policies of the

183. *Id.*

184. *See id.*

185. *Id.* at 604.

186. Surrey & Brannon, *supra* note 102, at 915.

187. *Id.*

188. *See* Betz, *supra* note 7, at 667, 671–79.

189. *Id.* at 690–91.

190. *See* Winn & Winn, *supra* note 114.

191. *Id.* at 838.

1986 Act.¹⁹² Simmons supported the utility of government incentives in the tax structure and believed a reduction in the tax base through incentives and subsidies that promoted Congressionally preferred activity would bring the United States closer to an equitable tax regime.¹⁹³

By the 1990s, Congress began to feel the weight of the societal pressure stemming from couples and working wives who were sick of bearing the weight of the unintended marriage penalties ushered in by previous tax reform. Marital demographics in the 1990s began to change, and dual earner married couples wanted more. Nancy Knauer, and other scholars who advocated for family tax reform, studied how same-sex relationships fit into the change and how tax policies failed to also strike a balance for same-sex couples, putting American tax policy further behind the curve of inclusion and couples equity.¹⁹⁴ By the late 1990s, more scholars like James Alm and Leslie Whittington also began examining the impact of marginal tax rate changes that individuals incur as a result of marriage and how this influenced a person's decision to marry.¹⁹⁵ With more wives entering the work force, many discovered that as "return to work tends to fall as the marginal tax rate increases, the secondary earner has less of an incentive to work."¹⁹⁶ Taxes *do* influence behavior, but Alm and Whittington theorized that putting an end to these bad influences began with eliminating marriage penalties or bonuses.¹⁹⁷

By 2000, the political landscape was stubborn to change or abandon marriage penalties and bonuses. Assuming that marital status would still have a significant impact on tax legislation, in lieu of completely abandoning marriage bonuses and penalties, Lawrence Zelenak pitched the mandatory separate return approach or a single-rate tax approach, but agreed that neither seemed politically feasible at the time.¹⁹⁸ He maintained this position in much of his subsequent scholarship and believed that prioritizing couples neutrality and progressive rates through optional separate filing or targeted relief aimed at various couples could level the playing field for marriage penalties and marriage bonuses by offsetting each burden.¹⁹⁹ Zelenak proposed "splitting the difference" so that,

192. Simmons, *supra* note 136, at 151.

193. *Id.* at 221.

194. See Knauer, *supra* note 79, at 132–33.

195. Leslie Whittington, *Manipulating Marriage? Federal Income Taxes and the Household Structure Decision*, 16 N.Y. L. SCH. J. HUM. RTS. 129, 130 (1999).

196. *Id.*

197. See Whittington, *supra* note 195, at 129–32; see also Kornhauser, *supra* note 67, at 650.

198. Zelenak, *supra* note 118, at 2–3; see also Zelenak, *supra* note 129, at 339.

199. See Zelenak, *supra* note 118, at 3, n.11; see also Lawrence Zelenak, *For Better and Worse: The Differing Income Tax Treatments of Marriage at Different Income Levels*, 93 N.C. L. REV. 783, 816 (2015).

at every income level the dollar amounts of marriage penalties and bonuses actually experienced by affected taxpayers were approximately equal and offsetting,” then married people “pay the same tax they would pay if they were not married, and single people . . . are neither burdened by having to pay extra tax to make up for a net marriage bonus nor benefited by a tax reduction caused by a net marriage penalty.²⁰⁰

Notwithstanding all of the scholarly proposals for couples equity and marriage neutrality in a progressive tax system, few people were really turning the page to examine other penalties embedded in the tax system, such as the singles tax penalty. Recognizing that the singles tax was quickly falling into the forgotten seams of the tax structure, Alm, Whittington and Jason Fletcher conducted an in-depth study paying homage to the singles tax penalty and the relative tax treatment of single and married taxpayers, the results of which are discussed above in Part III, subsection a.²⁰¹

The existence of the marriage tax has attracted enormous amounts of public attention in recent years, and eliminating or reducing the marriage tax has been a stated goal of many bills introduced in the last Congress, including the recently enacted Economic Growth and Tax Relief Reconciliation Act of 2001. However, largely lost in the attention devoted to the treatment of married taxpayers in the income tax is the treatment of single taxpayers in the tax.²⁰²

Others saw this gap in tax policy and contributed solutions eradicating the single’s tax penalty.²⁰³ For instance, Lily Kahng is widely known for her article, *One is the Loneliest Number: The Single Taxpayer in a Joint Return World* where she sounds the alarm on this growing demographic and the disappointing correlation to the number of tax laws that support them.²⁰⁴ Kahng used singles data from the U.S. Census and paired it with economic and behavioral studies of singleness as a social identity to assess the punitive impacts of the tax system and the joint tax return on single people.²⁰⁵ As far as behavioral effects of marriage penalties and their influence on the decision to marry, the explanations are present but the research is

200. Zelenak, *supra* note 199, at 816.

201. See Alm et al., *supra* note 6.

202. *Id.* at 70.

203. See R. Michael Alvarez & Edward J. McCaffery, *Gender and Tax* (Univ. of S. Calif. L. Sch., Working Paper No. 99-11, 1999).

204. Lily Kahng, *One is the Loneliest Number: The Single Taxpayer in a Joint Return World*, 61 HASTINGS L.J. 651, 663 (2010).

205. *Id.* at 653.

scarce.²⁰⁶ Recent research suggests that marriage penalties and bonuses can influence each spouse's earnings and work decisions.²⁰⁷ Marriage penalties do not seem to deter couples from tying the knot.²⁰⁸ But while marriage penalties do not appear to discourage most couples from getting married, some argue that these penalties might delay marriage or disproportionately affect low-income individuals.²⁰⁹ On the other hand, there is evidence and data showing that marriage bonuses can encourage marriage and positively impact marriage rates.²¹⁰

Many of the points and assessments made in Kahng's article inspired the solution proposed in this piece. But her suggestion to abolish joint return as a remedy to the singles penalty is where our thoughts diverge, respectfully. James Puckett, another tax scholar and proponent of tax reform, saw the utility of Kahng's proposition, but like most tax scholars, offered this as a remedy to achieving couples' neutrality, rather than a remedy for the single's tax.²¹¹ Even Yair Listokin takes a modified lesser of two evils approach, supporting a progressive rate structure that balances couples neutrality and marriage neutrality.²¹² More recently, Daneil Hemel concluded that neither objective is appropriate for our current tax structure.²¹³ Both objectives sacrifice gains and benefits available to single parents and secondary household earners.²¹⁴ Hemel instead encouraged policy-makers to investigate the welfare and equity effects of "marginal marriages" instead of the marital trilemma.²¹⁵

As Congress has previously used economies of scale to justify the differential tax penalties and bonuses created in 1986, the "equal sacrifice" principle or the "equality of taxation" is a separate principle coined by H.P. Young that some have used to justify progressive taxation and the varying tax schedules.²¹⁶ Simply put, under this principle, taxpayers are viewed as oblivious to the impacts their financial apportionment in the tax system, so they do not see or feel that they are more or less inconvenienced by their share of tax liability than

206. See Zelenak, *supra* note 129, at 363–64.

207. See Pomerleau, *supra* note 76, at 1.

208. Pomerleau, *supra* note 76, at 1.

209. See Zelenak, *supra* note 129, at 364.

210. See also Edward G. Fox, *Do Taxes Affect Marriage? Lessons from History*, 42–44 (N.Y.U., N.Y. Univ. Ctr. for Law, Econ. & Org., Law & Econ. Research Paper Series, Working Paper No. 17-15, 2017).

211. See generally James M. Puckett, *Rethinking Tax Priorities: Marriage Neutrality, Children, and Contemporary Families*, 98 U. CIN. L. REV. 1409, 1434 (2010) (supporting elimination of the joint return and providing comparable support for parents and children).

212. Yair Listokin, *Taxation and Marriage: A Reappraisal*, 67 TAX. L. REV. 185, 186 (2014).

213. Daniel Hemel, *Beyond the Marriage Tax Trilemma*, 54 WAKE FOREST L. REV. 661, 665 (2019).

214. *Id.* at 702.

215. *Id.* at 697, 700.

216. H.P. Young, *Progressive Taxation and the Equal Sacrifice Principle*, 32 J. PUBLIC ECON. 203, 203 (1986).

the next taxpayer.²¹⁷ But when it is time to pay Uncle Sam, does this form of distributive justice mean that everyone sacrifices the same percentage of utility or the same amount of utility?²¹⁸ The equal sacrifice doctrine, though widely accepted, is not accepted here. The subsidy I propose brings our tax structure closer to true distributive justice that brings about positive social behavior. In fact, Edward McCaffrey, an advocate for reasonable and reformative tax law, often deviated from this traditional form of distributive justice and pushed for tax policies that mirrored behavioral incentives that give individuals more freedom of choice in family formation without much influence from the tax code or its family-based incentives.²¹⁹ But a freedom of family choice approach is not without fault, since family dynamics and definitions change with the times making it difficult to capture in a tax code that is 100% family neutral.²²⁰ "Tax laws are too deeply intertwined with contemporary social reality to allow for simple, distributive norms to guide us."²²¹

In addition to dissecting the relationships between fairness and welfare, Louis Kaplow's scholarship illustrates the disconnect between tax features, such as joint filing, and welfarist income taxation.²²² Welfare economics subscribes to the notion that federal income tax should adjust tax liability by taking notice of the family if family relationships either "(1) alter the marginal utility of money for family members or (2) affect individuals' perceived relative prices of goods or activities."²²³ For example, in the absence of taxation, if individuals begin consuming goods and services according to market pricing set in the absence of a tax, then the implementation of a tax that later alters the prices of certain goods and services, would lead individuals to alter their behavior.²²⁴ In this instance, federal income tax liability should be adjusted if family relationships (or some other social behavior) affect the relative perceived prices of certain goods and services. However, doing so is difficult because it presents a challenge to horizontal and vertical equity. For example, suppose Congress decides to use families as a vehicle for increasing utility and societal welfare, and consequently subsidizes individuals living in families by taxing them less than individuals, if the family agrees to redistribute wealth and resources within and amongst their family members.²²⁵ For equity purposes, it seems as though the subsidies should also be provided to the single taxpayer with no relatives. However, a single household cannot redistribute their wealth in the

217. *See id.* at 208.

218. *Id.* at 204.

219. McCaffrey, *supra* note 4, at 1059.

220. *Id.* at 1056.

221. *Id.* at 1060.

222. *See* LOUIS KAPLOW, *THE THEORY OF TAXATION AND PUBLIC ECONOMICS*, 315–43 (2010).

223. Alstott, *supra* note 10, at 738.

224. *See id.*

225. *See generally id.* at 741 (providing an example of a situation mirroring the one described).

same way that families are able to redistribute amongst family members through economic sharing and pooling, producing differing economies of scale for each household. Consequently, this subsidy threatens the concept of horizontal equity which insists that similar individuals face similar tax burdens.

Ann Allstott and Jacquin Bierman's article provides overwhelming justification for a tax system that does not look to the outdated values of welfare economics, since its foundational concepts feed into the rapidly dissolving family unit.²²⁶ Alstott and Bierman summarize that the societal shift towards individualism over the past few decades, combined with the dissolution of the traditional American family, create a need and opportunity for the tax system to migrate away from tax assumptions and features linked to formal and traditional marriage, such as economies of scale, and instead focus on behavior.²²⁷ Marjorie Kornhauser, agrees that the "rapid rise in nontraditional living arrangements calls into question assumptions about patterns of sharing resources, as well as the concept of family itself."²²⁸ Yet, like Congress, she strongly believes that attitudes and behavior have no place in tax policy, and attitudes towards behavior such as marital resource pooling should only be considered when deciding whether married couples should be taxed as individual units under the joint tax return.²²⁹ But like the difficulties of calculating the singles tax discussed below, calculating behavior as a means of determining the economic unit is both difficult and invasive.²³⁰ For example, a couple that chooses to deposit their income in separate account versus a joint account, could signify a true rejection of financial pooling, or it could be a couple's financial preference to combine resources but divide some of the bookkeeping responsibilities.²³¹ Further, while household pooling tends to justify treating the married couple as a taxable unit, like behavior, it's unclear how to evaluate these strategies and other economies of scale in determining tax liability. Arguably, a married couple should pay less tax than one single person with the same amount of income because their household requires more work and resources to sustain itself. But two single people living separately whose combined income equals that of two working married spouses should pay less than the married couple due to the couples' economies of scale.²³²

Oldman and Temple laid out the following equitable principles, based on economies of scale: (1) An unmarried person should pay the same or a greater tax than a one-worker married couple with equal income; (2) A one-worker married couple should pay a greater

226. *Id.* at 742-43.

227. *Id.* at 743.

228. Marjorie E. Kornhauser, *Love, Money, and the IRS: Family, Income-Sharing, and the Joint Income Tax Return*, 45 HASTINGS L.J. 63, 66-67 (1993).

229. *Id.* at 67; accord Zelenak, *supra* note 118, at 349-50.

230. Kornhauser, *supra* note 228, at 71-72.

231. *Id.* at 82.

232. See Cohen Testimony, *supra* note 155.

tax than a two-worker married couple with equal income; and (3) A two-worker couple should pay more than two single persons with the same total income.²³³ A single household and a married household with identical AGIs are not truly equals because of the cost advantages that take place in a married household. Despite a family or a couple's lower ability to pay, family ties impact wealth and poverty in several ways, primarily through sharing expenses and resources.²³⁴ Most marital couples share the economic benefits of the marriage, whereas a single taxpayer is unable to participate in the same pooling arrangement.²³⁵ "In theory, [a] couple's tax burden could take account of things like economies of scale (that is, the couple would not need twice as much to live on as the single person because the couple could share certain expenses like housing and buy food in bulk)."²³⁶ Families tend to produce economies of scale that ameliorate a person's resource position.²³⁷ According to the U.S. Bureau of Labor Statistics' 2021 Consumer Expenditure Survey, the average single person spends about \$48,000 annually, of which \$17,899 is spent on housing. In comparison, the average married couple spends about \$76,000 annually, of which \$24,811 is spent on housing—\$12,405.50 each, netting almost a \$5,500 difference in housing expenses, with the single person footing the larger portion of the bill.²³⁸ Government poverty-based equivalence scales use "a ratio of actual AGI and projected poverty thresholds for [a given tax year] to determine the equivalent AGI by household type."²³⁹ Another household equivalence scale values the needs of a child as 70% of those of an adult.²⁴⁰

In efforts to offer a fresh contribution to propositions already considered for equitable tax reform, this Article argues that the answer is not deciding whether to tax the unit or the individual, but rather providing more tax subsidy considerations for single and childless individuals, so that the other tax features that currently challenge the overall equity of the code are less likely to occur, regardless of the approach. Singlism and its associated connotative biases, along with legally constructed lumping, like the embedded and dreaded singles tax penalty, absolutely influence the single household experience in American society. When crafting tax policy, I agree that the family unit should not be the sole determinative criterion for

233. Oldman & Temple, *supra* note 181, at 603–04.

234. Alstott, *supra* note 10, at 738.

235. Winn & Winn, *supra* note 114, at 844; *see also* Esenwein, *supra* note 80, at CRS-8.

236. Kahng, *supra* note 22, at 677.

237. Alstott, *supra* note 10, at 739.

238. U.S. Bureau of Labor Statistics, *Consumer Expenditure Survey: 2021* 4 tbl.1502, <https://www.bls.gov/cex/tables/calendar-year/mean-item-share-average-standard-error/cu-composition-2021.pdf>.

239. Alm et al., *supra* note 6, at 75; *accord* Cong. Budget Office, *Estimates of Federal Tax Liabilities for Individuals and Families by Income Category and Family Type for 1995 and 1999* 34 (1998).

240. Alm et al., *supra* note 77, at 199.

tax reform. However, I also think that “certain economic circumstances, such as the extent and effects of pooling of income, economies of scale, dual consumption, imputed income and imputed costs of a single earner as opposed to two-earner couples, should be taken into account” in addition to marital status.²⁴¹ The Treasury envisions an ideal tax system that would remove itself from an individual’s private affairs and have little influence on the economy.²⁴² “The Treasury justified its advocacy of a neutral tax system by saying in part that a ‘consistent definition of taxable income would allow market forces, rather than the tax system, to determine the allocation of the nation’s scarce economic resources.’”²⁴³ And while marriages and traditional families previously dominated social demographics across America, using the family unit to further define taxable income leads to current and future equity issues with the Code and sustains Congress’s inability to meet the economic needs of smaller households. Looking at the demographics, the singles tax penalty will continue inconveniencing a growing number of taxpayers. Despite nearly one half of the U.S. adult population now identifying as single, the federal income tax continues to define “family” based on formal marriage.²⁴⁴

To be clear, these numbers aren’t increasing because society has shifted to accommodate the single or solo-living. Quite the contrary; they are increasing even though the United States is still organized, in pretty much every way, to accommodate and facilitate the lives of partnered and cohabitating people, particularly married people.²⁴⁵

The continuous decrease in marriage rates and increasing number of people choosing not to marry or have children indicate that formal marriage is no longer the only definition of family life. These changes in family demographics make the traditional practice of joint filing irrelevant, regardless of one’s beliefs about the importance and preference for marriage.²⁴⁶ “This phenomenon becomes more significant than the marriage penalty for two-earner couples at lower income levels and presumably affects more people.”²⁴⁷ But laws and policies centered around the family unit continue to feed into the outdated allure of marriage and its formalized principles, placing single taxpayers in a distasteful financial position. The following section provides two solutions that put Congress in a position to promote

241. Shurtz, *supra* note 115, at 1692.

242. Simmons, *supra* note 136, at 221–22.

243. *Id.* at 222.

244. Alstott, *supra* note 10, at 695.

245. Anne Peterson, *The Escalating Costs of Being Single in America*, Vox (Dec. 2, 2021, 8:10 AM), <https://www.vox.com/the-goods/22788620/single-living-alone-cost>.

246. Alstott, *supra* note 10, at 727–28.

247. Winn & Winn, *supra* note 114, at 841.

true equity for single filers in the form of a tax expenditure or incentive. One solution suggests that lawmakers create a tax credit or deduction that subsidizes the unique financial pressures that singles face in other areas of the economy and society. Likewise, the second solution revisits the EITC expansion for childless workers under the 2021 America Rescue Plan Act and the relief it could provide as a permanent enactment.

IV. SINGLES TAX SUBSIDY AND THE PERMANENT CHILDLESS EITC

A. Take Credit for Being Single

“The American public has shown little appetite for extending cash support to nonworking childless adults.”²⁴⁸ The tax code continues to permeate the lives of single filers through its lack of inclusive tax policies that allow them to take advantage of the code in the same way that some couples appreciate the benefits received through joint filing and marriage bonuses. In efforts to maintain these benefits, lawmakers have created several policies aimed at balancing the tax trilemma and financially supporting the family unit. As such, these policies have influenced marital behavior at the expense of singles. However, the government should consider balancing the code in favor of singles through tax expenditures or credits for smaller households. Tax expenditures have long been a vehicle for influencing taxpayers’ social and financial behavior. Promoting inclusive economic behavior through these singles expenditures can have a positive impact on their social experience and unique household or lifestyle expenses. I suggest that lawmakers introduce one or more tax expenditures that can apply exclusively to single filers at all income levels.

“The size of tax expenditures depends on tax law and on economic conditions.”²⁴⁹ For example, tax legislation has previously expanded family-friendly tax expenditures, such as the Child Tax Credit.²⁵⁰ Also, they are sometimes enacted to promote a government incentive. For example, the EITC was originally created to encourage individuals to enter the workforce by providing financial assistance to low-income workers.²⁵¹ Daniel Simmons explores modifying and reducing the tax base through government incentives to create a system that accounts for individual and specific ability to pay adjustments without impacting another taxpayer’s current benefits.²⁵² The tax expenditure concept assumes that there is an accepted under-

248. Kleiman, *supra* note 59, at 559.

249. CONG. BUDGET OFF., *THE DISTRIBUTION OF MAJOR EXPENDITURES IN 2019* 10 (2021).

250. *See generally id.* at 19–20 (describing the Child Tax Credit and its creation).

251. John Infranca, *Earned Income Tax Credit As Incentive to Rep.*, 83 N.Y.U. L. REV. 203, 206 (2008).

252. *See* Simmons, *supra* note 136, at 184–85.

standing of what properly constitutes net income and that preferences enacted to induce specific behavior are equivalent to governmental subsidies or expenditures, on behalf of the favored activity.

The Congressional Budget and Impoundment Act of 1974 defines tax expenditures as “those revenue losses attributable to provisions of the federal tax laws which allow a special exclusion or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability.”²⁵³ Exclusions are defined as income that is excluded from a taxpayer’s total annual income.²⁵⁴ “Deductions allow taxpayers to reduce their taxable income, often by an amount that they have spent for a particular purpose.”²⁵⁵ “Unlike exclusions and deductions, credits reduce tax liability dollar for dollar by the amount of the credit, regardless of which tax bracket the taxpayer is in” and can be refundable.²⁵⁶

In Surrey’s opinion:

The federal income tax system consists really of two parts: one part comprises the structural provisions necessary to implement the income tax on individual and corporate net income; the second part comprises a system of tax expenditures under which Governmental financial assistance programs are carried out through special tax provisions rather than through direct Government expenditures.²⁵⁷

Surrey believed that traditional tax incentives often escaped the same examination applied to appropriation programs and emphasized the need for more “expenditure control.”²⁵⁸ He also thought tax incentives should be analyzed in a broad sense and reviewed for equity, efficiency, and simplicity.²⁵⁹ For years, traditional tax theory has consistently identified the IRS tax code’s attempt at achieving the following objectives simultaneously: revenue raising, equity, neutrality and political order.²⁶⁰ But the federal tax system has long served as a vehicle for influencing specific industries and activities through special incentives and expenditures, like marriage, economic spending, and promoting a healthy environment.²⁶¹

One way that legislators can use these expenditures to influence tax-neutral behavior is through a singles tax deduction or credit that

253. Cong. Budget and Impoundment Control Act of 1974, Pub. L. No. 93-344, § 3(a)(3), 88 Stat. 297, 299 (1974).

254. CONG. BUDGET OFF., *supra* note 249, at 6.

255. *Id.* at 7.

256. *Id.*

257. STANLEY S. SURREY, *PATHWAYS TO TAX REFORM: THE CONCEPT OF TAX EXPENDITURES* 6 (1973).

258. Edward D. Kleinbard, Chief of Staff, Address to the Chicago-Kent College of L. and Fe. Tax Inst., in *RETHINKING TAX EXPENDITURES* 1 (2008).

259. *Id.* at 2.

260. Shurtz, *supra* note 115, at 1667.

261. *See id.* at 1667–68.

is exclusive to single households regardless of income. Tailoring these incentives would not only encourage more tax activity amongst single filers, but also balance the tax that singles incur because of their single status. Also, these singles benefits should strive to negate the financial load that singles face in other areas of the law and society. Other areas where singles are financially burdened includes “food, housing, medical care, transportation and entertainment.”²⁶² For example, single households waste more food than larger households. “According to ReFED, about 42.8 million tons of food were discarded at the residential level in 2022.”²⁶³ But both national and international studies show that single households waste more food on a per capita basis and as household size increases, per capita food waste decreases.²⁶⁴

In 2021, a socio-demographic study in the United Kingdom revealed that, “on average, larger households generate less waste per person than single-occupancy households – this difference stems from single-occupancy households generating more waste from not using food before it goes off or past a date label (rather than, for example, generating more leftovers).”²⁶⁵ Another international study from 2020 revealed that, of their participants, the amounts of food waste per person per week “were the largest for the single household and reduced with the increasing number of people living in the household.”²⁶⁶ Some suggest that smaller households should recycle their food waste into other meals or ingredients, but food scraps can only be repurposed so many times before they are considered expired and inedible.²⁶⁷ Others also suggest preparing single-serve

262. Mike Winters, *Living Alone Comes With A “Singles Tax” – Here’s How Much It Can Cost You*, CNBC (Feb. 14, 2024, 9:00 AM), <https://www.cnbc.com/2024/02/14/living-alone-comes-with-a-singles-tax-how-much-it-can-cost.html>.

263. Maddy Lauria, *Food Waste Statistics and Facts*, ONE 5C (Mar. 14, 2024), <https://one5c.com/food-waste-statistics-136936188>.

264. See e.g., Karin Schanes et al., *Food Waste Matters - A Systematic Review of Household Food Waste Practices and Their Policy Implications*, 182 J. OF CLEANER PROD. 978, 985 (2018); Jesper Clement et al., *Exploring Causes and Potential Solutions for Food Waste Among Young Consumers*, FOODS 4 (2023); see also Eva Ganglbauer et al., *Negotiating Food Waste: Using a Practice Lens to Inform Design*, 20 ACM TRANS. COMPUT. HUM. INTERACT. 1 (2013); Joshua Paine, *Smaller Households are Less Efficient With Food*, UGATODAY (Nov. 25, 2020), <https://news.uga.edu/smaller-households-less-efficient-with-food>; Andrea Collins & Darby Hoover, *Additional Research on Household Food Waste*, NATIONAL RESOURCES DEFENSE COUNCIL (Feb. 8, 2024), <https://www.nrdc.org/bio/andrea-collins/additional-research-household-food-waste>.

265. See TOM QUESTED AND PAULINA LUZECKA, WRAP, *HOUSEHOLD FOOD & DRINK WASTE: A PEOPLE FOCUS 1-2* (2014), https://www.wrap.ngo/sites/default/files/2021-02/WRAP-Household-food-and-drink-waste-A-people-focus-Report_0.pdf.

266. Helen Williams et al., *Avoiding Food Becoming Waste in Households – The Role of Packaging in Consumers’ Practices Across Different Food Categories*, 265 J. OF CLEANER PROD. 7 (2020).

267. See generally Lisa Kendall, *Urban Singles and Food Waste; How to Use What You Already Have*, GREEN LIVING (2021), <https://www.greenlivingpdx.com/urban-singles-and-food-waste> (last visited Mar. 2, 2025); Pietro Tonini et al., *Predicting Food Waste in Households With Children: Socio-economic and Food Related Behavior Factors*, FRONTIERS IN NUTRITION 2-3 (2023).

dishes or downsizing large meals, but converting serving sizes and measurements to feed a family of one can also be challenging.²⁶⁸ But singles could also seek to reduce their food waste beyond the grocery store and shop at local farmers markets where food items can be purchased in smaller amounts.²⁶⁹ Another suggestion is to share the wealth: divide larger food items with a friend or a relative who also lives alone.²⁷⁰ In efforts to achieve the national goal of reducing food waste, lawmakers could create a tax credit or deduction that encourages single households to reduce their food waste. For example, while not all singles may have access to a farmer's market or may not be able to afford certain items, Congress could provide tax incentives for single and childless filers who shop with these businesses while also supporting food waste reduction, farming, and small businesses. This type of food waste deduction or credit would provide single filers with more representation in the tax code, while simultaneously providing financial relief in an area that is statistically unique to their household: food waste.

As another example, because singles are unable to engage in the same type of economic pooling as married couples, many are faced with fronting the entire bill for rent and utilities each month.²⁷¹ "Housing costs might be the most obvious financial burden for single people living on their own."²⁷² In 2024, Zillow reported that single adults spend on average \$7,110 per year to live alone.²⁷³ This has led many single adults to seek out roommates who they can share living costs with. But many do not enjoy having to choose between their finances and their preferred living arrangements.²⁷⁴ A tax credit that rewards singles for making a timely mortgage or rent payments each month would reduce some of the financial inconveniences associated with solo living and encourage more activity in the housing market.

B. Childless and Single? You Earned It

Congress does not need to reinvent the wheel to create a tax subsidy that absorbs the financial shock of being single. The government has previously used existing tax policy to provide relief for groups who are uniquely susceptible to financial issues because of

268. See Crystal Smith, *Food Waste And The Single-Person Household*, SUPPER STRUCK (Apr. 29, 2022), <https://supperstruck.com/food-waste-and-the-single-person-household/>; see also Laura Waldman, *Cooking for One With Zero Waste*, I VALUE FOOD, available at <https://ivaluefood.com/resources/cooking-eating/cooking-for-one-with-zero-waste>.

269. See Smith, *supra* note 268.

270. *Id.*

271. Maurice Backman, *Can You Afford to Live Alone? How to Avoid the Singles Tax*, U.S. NEWS & WORLD REP. (Oct. 31, 2023), <https://realestate.usnews.com/real-estate/articles/can-you-afford-to-live-alone-how-to-avoid-the-singles-tax>.

272. Winters, *supra* note 262.

273. *Renting Alone? The 'Singles Tax' Now Exceeds \$7,000*, ZILLOW GRP. (Feb. 12, 2024), <https://investors.zillowgroup.com/investors/news-and-events/news/news-de-tails/2024/Renting-alone-The-singles-tax-now-exceeds-7000/default.aspx>.

274. McNair, *supra* note 69.

their status. Created in 1975, the EITC is a refundable credit available to low- and moderate-income workers.²⁷⁵ It was originally enacted on a temporary basis to ensure that working families with children could avoid poverty.²⁷⁶ “The credit was also viewed as a means to encourage economic growth in the face of the 1974 recession and rising food and energy prices.”²⁷⁷ Qualifying for and receiving the EITC depends on three criteria: income level, marital status and number of children.²⁷⁸ “By design, the EITC only benefits people who work.”²⁷⁹ But the purpose of the credit further contributed to the marital inequities of the tax code. It was not available to childless workers until 1993 as part of the Omnibus Budget Reconciliation Act, but still, they received minimal tax relief compared to the amounts available to couples and families with children.²⁸⁰ In 2001, Congress continued to show its favoritism towards families by increasing the income level at which the credit phased out for married tax filers in comparison to unmarried tax filers, functioning as a form of marriage penalty relief.²⁸¹ Between 2001 and 2015, legislators gradually increased the EITC income phase out levels for married couples and families, with the Hikes Act cementing these changes in place.²⁸² Today, the amounts and thresholds available to childless workers remain drastically uneven when compared to larger households.²⁸³

Table 1: “EITC amounts by income and number of children for unmarried taxpayers in 2024”²⁸⁴

275. *What is the earned income tax credit?*, TAX POL’Y CTR. (Jan. 2024), <https://taxpolicycenter.org/briefing-book/what-earned-income-tax-credit>.

276. See MARGOT L. CRANDALL-HOLLICK, CONG. RSCH. SERV., R44057, *THE EARNED INCOME TAX CREDIT (EITC): AN ECONOMIC ANALYSIS 2* (2018).

277. MARGOT L. CRANDALL-HOLLICK, CONG. RSCH. SERV., R44825, *THE EARNED INCOME TAX CREDIT (EITC): A BRIEF LEGISLATIVE HISTORY 3* (2018).

278. *Policy Basics: The Earned Income Tax Credit*, CTR. ON BUDGET AND POL’Y (last updated Apr. 28, 2023), <https://www.cbpp.org/research/policy-basics-the-earned-income-tax-credit>.

279. TAX POL’Y CTR., *supra* note 275.

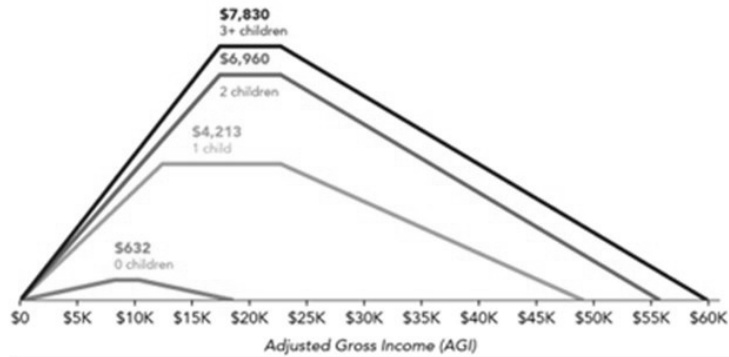
280. See Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66; *see also* Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508.

281. See Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16; *see also* Crandall-Hollick, *supra* note 277, at 9–10.

282. See TAX POL’Y CTR., *supra* note 275; *see generally* Crandall-Hollick, *supra* note 277.

283. See TAX POL’Y CTR., *supra* note 275.

284. Margot Crandall-Hollick et al., *How the American Rescue Plan’s Temporary EITC Expansion Impacted Workers Without Children*, TAX POL’Y CTR. 3, Fig. 1 (Sep. 6, 2024), https://taxpolicycenter.org/sites/default/files/2024-10/Final_2021_expanded_EITC_brief%20reformatted%2009052024.pdf.



As indicated in the figure above, currently, childless workers can only receive a maximum credit of \$632, compared to the max credit of \$4,213 for families with one child.²⁸⁵ The max amount of income a childless worker can earn to claim the credit is \$18,591, compared to \$55,899 for filers with three or more children and \$66,819 for couples filing jointly with three or more qualifying children.²⁸⁶

But in 2021, single and childless filers finally received a tax break that was worth the wait. The American Rescue Plan Act temporarily expanded the EITC for childless workers and raised the maximum credit from an estimated range of \$540 to \$1500.²⁸⁷ It also lowered the age of eligibility from 24 to 19 and was made available to childless workers with a max income of \$21,430.²⁸⁸ “While the number of taxpayers who received the expanded credit in 2021 increased across all age groups, the largest increase was among younger workers ages 19–24 years old.”²⁸⁹ As expected, studies on the expanded EITC indicated that a larger credit “can reduce material hardships and may increase labor force participation of childless workers, improving their financial situations . . . [and] can benefit society more broadly.”²⁹⁰ During the expansion period, many EITC recipients experience lower rates of food insecurity.²⁹¹ “Most recipients reported using the [credit] to pay for essential and routine household expenses. In addition, some families improved their financial well-being by using the [credit] to save and pay off debt.”²⁹² Another study

285. *Id.*

286. I.R.S. Publication 569 (2024).

287. MARGOT L. CRANDALL-HOLLIICK, CONG. RSCH. SERV., IN11610, THE “CHILDLESS” EITC: TEMPORARY EXPANSION FOR 2021 UNDER THE AMERICAN RESCUE PLAN ACT OF 2021 3 (2021).

288. TAX POL’Y CTR., *supra* note 284 at 3.

289. *Id.* at 5.

290. *Id.* at 8.

291. *How did the 2021 American Rescue Plan Act Change the Child Tax Credit?*, TAX POL’Y CTR. (Jan. 2024), <https://taxpolicycenter.org/briefing-book/what-earned-income-tax-credit>.

292. *Id.*

also found that the increase had a significant impact on the quality of life for young adults by reducing the number of solo renters who were behind on their rent or mortgage payments.²⁹³

A permanent increase to the EITC for childless workers would counterbalance some of the inequities within the tax code and allow single filers to receive a financial credit that can be applied to an area of their lifestyle that leaves them with a unique financial burden because of their single status. For example, while singles are unable to benefit from the economic pooling advantages of splitting resources like rent and utilities with a spouse or significant other, an increased EITC for singles could be used as “payments on secured debt . . . such as home loans [and could] help reduce principal amounts owed and may increase an individual’s equity.”²⁹⁴ Since the reform’s expiration in 2021, “both Democrats and Republicans have proposed amendments to provide a substantial EITC for childless workers.”²⁹⁵ These proposals typically involve expanding the eligible age limits for the childless EITC—lowering the age of eligibility from 25 to 21 and increasing the age of eligibility from 64 to 67—increasing the maximum credit and expanding the income range over which the credit is available.²⁹⁶ Of these options, prioritizing an increase of the maximum credit and the income range would reach a wider singles demographic. Lowering or increasing the age of eligibility would also provide sufficient reform, but amending the age and leaving the financial components the same would only increase the number of single and childless filers who are still susceptible to financial instability. Others note that the EITC is responsible for more than 28% of all tax payments in error, primarily for filers claiming one or more children.²⁹⁷ But an expansion for childless workers likely would not display the same error rate, since most incorrect payments are associated claims

293. See e.g., TAX POL’Y CTR., *supra* note 284; see also Jiwan Lee et al., *Effects of the Expansion of the Earned Income Tax Credit for Childless Young Adults on Material Wellbeing* 3 (NAT’L BUREAU OF ECON. RSCH., Working Paper No. 32571, June 2024); see also Akansha Bantra et al., *Effects of the 2021 Expanded Child Tax Credit on Adults’ Mental Health: A Quasi Experimental Study*, 42 HEALTH AFF. 74, 80 (Jan. 2023) (“ . . . recent studies using . . . similar study designs have noted that the monthly CTC payments resulted in reductions in markers of financial hardship, with improved food sufficiency and more confidence in the ability to pay for housing.”).

294. Mathieu R. Despard et al., *Do EITC Recipients Use Their Tax Refunds to Get Ahead? New Evidence from Refund to Savings*, CSD Research Brief No. 15-38, WASHINGTON U. ST. LOUIS CTR. FOR SOCIAL DEV. (July 2015), https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1589&context=csd_research.

295. TAX POL’Y CTR., *supra* note 275.

296. *Id.*; Chuck Marr, CENTER ON BUDGET AND POLICY PRIORITIES, *Off The Charts: EITC Could Be Important Win for Obama and Ryan*, (Nov. 16, 2015, 10:30 AM) <https://www.cbpp.org/blog/eitc-could-be-important-win-for-obama-and-ryan>.

297. *Id.*

involving children.²⁹⁸ Of course, with any tax proposal, no legislator is completely certain that it is both economically and socially fool-proof. But while these propositions have heuristic qualities, they ultimately provide some financial support for the singles class.

V. CONCLUSION

“How a country taxes its citizens is a direct declaration of its values.”²⁹⁹ The symbolic significance of marriage and family in America presently permits Congress to maintain and protect the family unit through laws, taxes and other areas of society. The current tax benefits and incentives afforded to families and households with children are seemingly more justifiable, convenient, and easier to assess than creating tax laws that benefit both single households and family households. The reform proposed here advocates taking the historically valued and protected marital concepts underlying tax benefits that positively lump and support the family unit and using this same energy to suture and fill the gap that propels singles into a category of under-protected and undervalued taxpayers and consumers. A singles tax credit or deduction would allow for redistributing a majority of tax relief from married couples and families with children to singles, while maintaining the current tax credits and deductions available to married couples and families.³⁰⁰

This solution rests on the longstanding American principle: equal opportunity for every individual. “Society can require that each individual have equality with every other individual (be it equality of opportunity, results or some other conception of equality) or it can require that the groups as a whole have the same equality.”³⁰¹ If we are going to continue using economies of scale, family pooling, and traditional family values to justify joint tax returns, and the marital benefits (and penalties) that they provide, then we should allow singles to engage in an activity that would provide them with more equitable financial protections based on their economies of scale. Considering the growing single household demographic, the incidence of the singles tax and other unique singles costs cannot be overlooked. Exploring solutions that would be more inclusive of the singles demographic, would advance social welfare and government incentives that reshape social and legal lumps into fair and equitable benefits.

298. Crandall-Hollick, *supra* note 176, at 9.

299. Leder, Mimi, director. *On the Basis of Sex*. Focus Features et al., 2018. 2 hr. (quote from Armie Hammer playing Martin Ginsburg).

300. Alstott, *supra* note 10, at 737.

301. Kornhauser, *supra* note 67, at 637.



