Family-Friendly Tax Policy: Practical Ideas for Helping Parents

Comprehensive tax reform is a perennial challenge to policymakers in Washington, D.C. Over the years, a number of serious plans have been offered by Congress, the Executive Branch, and various think-tanks and private scholars to remedy the extraordinarily complex tax system with which individuals, families, and companies of all sizes deal.

On September 27, 2017, President Donald Trump, Speaker Paul Ryan (R-Wis.), and Leader Mitch McConnell (R-Ky.), in conjunction with the leaders of the relevant committees in the House and Senate, released Tax Reform: More Jobs, Fairer Taxes, Bigger Paychecks—a Unified Framework for Fixing Our Broken Tax Code ("Tax Framework"), which seems to have broad support. In fact, it includes a number of the pro-family tax provisions we discuss in this paper, including maintenance of the charitable deduction, repeal of the death (estate) tax, provision of a credit for caring, and an increase in the child tax credit. These provisions will have a profound impact on families. What Washington does to the family budget has a direct effect on the well-being of millions of moms, dads, and children.

The family is at the heart of our economy. As Family Research Council (FRC) has noted elsewhere, "The family is the great generator, and the intact family the greatest generator, of human capital (knowledge, attitudes, skills and habits of the individual), and of much financial savings and capital as well. The vast majority of small businesses (out of which eventually grow the large businesses of the nation) begin as family businesses, started on the savings of family and relatives, and on the human capital formed by parental investment in the education of children."[1]

So, given the imperative of family economic well-being and the relative sluggishness of economic growth, Family Research Council proposes the following shorter-term but still productive actions federal policymakers can take to bolster private family economies and the ability of moms and dads to better provide for their children.

Adoption Tax Credit

In late 2014, the U.S. Department of Health and Human Services' Administration for Children and Families counted nearly 108,000 children awaiting adoption in our country.[2] This is due, in part, to families lacking the financial capacity to afford adoption, which points to the need not only of an adoption tax credit but also for that credit to keep pace with inflation and potentially new adoption costs.

Modest steps to make adoption more affordable are taken periodically. For example, the Adoptive Family Relief Act[3] was passed by both the Senate and the House and then signed into law by President Obama in 2015. Authored by U.S. Sen. Diane Feinstein (D-Calif.) and U.S. Rep. Trent Franks (R-Ariz.), the Act provides "relief for adoptive families from immigrant visa fees in certain situations."

According to the Internal Revenue Service, federal tax policy includes "both a tax credit for qualified adoption expenses paid to adopt an eligible child and an exclusion from income for employer-provided adoption assistance. The credit is nonrefundable, which means it is limited to your tax liability for the year. However, any credit in excess of your tax liability may be carried forward for up to five years."[4]

Dawn Davenport, Executive Director of Creating a Family ("the national adoption & infertility education and support nonprofit"), clarifies that "the precise amount of the tax credit depends on the expenses incurred and the amount of taxes owed by the adopting parents."[5] She offers two examples:

> If the adopting parents spent $10,000.00 in recoverable adoption costs but owe only $7,000.00 in federal taxes, they can take a tax credit for only $7,000.00 in the first year following the adoption. But they may carry forward the unused credit for five tax years or until it is used, whichever comes first.
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> If the adopting parents owe $30,000.00 in federal taxes in one year and pay $10,000.00 in recoverable adoption costs that same year, they can claim the full $10,000.00 tax credit, thus reducing their tax liability to $20,000.00.[6]

The tax credit is laudable and has helped thousands of families, and it remains a tax credit that displaces some of the cost of adoption through lowering a family's taxes. However, refundability of adoption costs would better alleviate the economic stresses introduced by the cost of adoption. To this end, Rep. Diane Black (R-Tenn.) and U.S. Sen. Bob Casey (D-Pa.) introduced the "Adoption Tax Credit Refundability Act of 2017"[7] (H.R. 2476, S. 937), which would amend "the Internal Revenue Code to make the tax credit for adoption expenses refundable."[8]

Of note is that some churches now have adoption funds to help their members afford adoption. The Christian Alliance for Orphans provides guidance to churches regarding how to establish adoption funds.[9]

Charitable Deduction

The charitable deduction allows families to target their donations to organizations and ministries they believe significant and then receive a tax deduction for doing so. This benefits families in that it lowers their tax burden and also helps build a society in which private philanthropic and ministerial efforts are encouraged. This latter eventually strengthens an environment in which families can more fully flourish (e.g., through less dependency on government, etc.).

The charitable deduction also encourages giving such that duties otherwise imposed upon government (local, state, or federal) are moderated by virtue of private giving, which thereby lessens the tax burden on families. The Tax Framework maintains the charitable deduction, which is important for helping families directly, by decreasing their tax burden, and indirectly, by encouraging giving to organizations that provide significant help to families.

Economics professor Jeremy Horpedahl is not a fan of the charitable deduction. "Most taxpayers would benefit from removing the deduction and lowering tax rates since most taxpayers do not use the deduction regularly," he writes.[10] Yet even Dr. Horpedahl acknowledges the practical benefits of the deduction in the current tax code: "In fiscal year 2014, the deduction lowered taxes by $47 billion, with over 93 percent of the benefits going to tax filers under the individual income tax rather than the corporate tax."[11]

On the other hand, in *The Journal of Tax Policy* (June 2011), economists Jon Bakija (Williams College) and Bradley Heim (Indiana University) present an exhaustive case that "peoples' decisions about how much to donate to charity are influenced significantly by tax incentives."[12]

The IRS defines a deduction for a charitable contribution as "a donation or gift to, or for the use of, a qualified organization. It is voluntary and is made without getting, or expecting to get, anything of equal value … Qualified organizations include nonprofit groups that are religious, charitable, educational, scientific, or literary in purpose, or that work to prevent cruelty to children or animals."[13]

In an important and even ground-breaking paper titled, "Do Tax Incentives Affect Charitable Contributions? Evidence from Public Charities' Reported Revenues," University of Southern California professor Nicolas J. Duquette employs "a new approach to estimation of the importance of tax incentives for charitable giving. It does so by using data from nonprofits' tax filings, avoiding the flaws of individual tax return data, and by exploiting interstate differences in the effects of the 1986 tax reform, a novel identification strategy."[14] His conclusion: "A one-percent increase in the tax cost of giving causes charitable receipts to fall by about four percent, an effect more than three times larger the consensus in the literature. The effect is stronger for some sectors, notably health charities."[15]

Operating, then, on the quantifiable assumptions that charities not only lift enormous fiscal and administrative burdens from the shoulders of the state but also offer millions of people hope and help, what can be done to foster an increase in the amount of money people voluntarily give?

Certainly one thing is not to discourage giving, which is what a recent IRS proposed regulation would do by requiring donee organizations to report information about their filers, in lieu of providing a written acknowledgement of a donation. U.S. Sen. Pat Roberts (R-Kans.) introduced the "Protecting Charitable Contributions Act of 2017" (S. 587), which would change the code provision that allows the IRS to promulgate rules for requiring donee organizations to file such returns.[16] U.S. Rep. Mike Kelly (R-Pa.) introduced a bill, called the "Charities Helping Americans Regularly Throughout the Year Act of 2017" (H.R. 2916), with a similar provision. According to NBC-affiliate KSNT News (Topeka, Kans.):

> Whereas now, many nonprofits including churches, send a letter or some form of acknowledgement of contributions as a thank you, it also serves as the official record of a taxpayer's gift of more than $250 which can be submitted to the IRS as proof of donation. Under the proposed Gift Substantiation Proposed Regulations, (Sen. Pat) Roberts notes that the agency wants the nonprofits to not only gather additional data on their donors but to also submit it to the IRS.[17]

Such invasive data collection would not only provide the federal government with data on who gives what to whom, but might therefore discourage donations by citizens concerned that more of their personal information is being collected by Uncle Sam.

Another promising proposal is U.S. Rep. Erik Paulsen's (R-Minn.) "Interest for Others Act" (H.R. 894), which would encourage charitable giving by providing tax incentives and reducing barriers. The bill excludes from taxable income a limited amount of interest earned from checking and savings account and dividends received from a money market mutual fund if the money is donated to a qualified charitable organization.[18]

These modest but practical enhancements of the charitable deduction are valuable additions to the larger issues. In an extensive 2011 study, the Congressional Budget Office considered several "options for changing the tax treatment of charitable giving."[19] Noting that the original charitable deduction was "created in 1917 and "in general … applied only to high-income people" since only persons with substantial incomes were "required to pay the income tax in its early years," the CBO concludes that "empirical studies generally find that taxpayers respond to the after-tax price of giving to some degree."[20] This is a cautious and even opaque way of saying that the charitable deduction motivates people to give.

The CBO study suggests several ways of altering the current charitable deduction regime, including nonrefundable tax credits rather than deductions. These are intriguing options but for the immediate present appear out of reach in a political climate occupied with other priorities.

Still, effective change can be made without up-ending this entrenched and somewhat tendentious element of the federal tax code. Writing in the January 27, 2016 *Chronicle of Philanthropy*, Kevin Murphy, immediate past chair of the board of directors of the Council on Foundations, offers a game-plan for inducing higher charitable giving.

> For as long as records have been kept, charitable giving has remained stuck at about 2 percent of the gross domestic product … In today's dollars, an increase in giving to 3 percent would yield an additional $170 billion to expand the work of the nonprofit sector. The impact on our communities would be staggering … We should allow everybody who files a tax return, not just those who itemize their taxes, to get a tax break for their giving. We should advocate for removing limits on the charitable deduction that prevent wealthy Americans from getting a benefit when they donate a large percentage of their income every year. Nobody should have to pay taxes on money they donate to societal good. We need to expand the time that donors can make a gift; that is, allow them until April 15 of each year to make donations that count in the previous tax year.[21]

With all of this said, there is another benefit to the charitable deduction: It reminds the American people that government's duty with respect to social need is not comprehensive or, were the Constitution followed as its Framers intended, dominant with respect to private charity. The deduction reminds us that religious organizations—themselves untaxed as entities distinct from the state—provide great benefit to those they serve and to society as a whole; and that non-governmental organizations have a place in a society in which the role of the federal state is to be limited, not continuously expansive.

These non-quantifiable but very genuine benefits of the charitable deduction are imperative for the health of limited and representative political self-governance, and more importantly to the ordered liberty that springs less from legally constituted authority or specific laws but from the one thing most essential to the American system: personal virtue.

Estate Tax

Here's how the IRS defines the Estate Tax (otherwise known as the "death tax"): It is

> A tax on your right to transfer property at your death. It consists of an accounting of everything you own or have certain interests in at the date of death. The fair market value of these items is used, not necessarily what you paid for them or what their values were when you acquired them.

> The total of all of these items is your "Gross Estate." The includible property may consist of cash and securities, real estate, insurance, trusts, annuities, business interests and other assets.[22]

This technical definition is given real meaning by this assessment by The Heritage Foundation:

> One of the worst features of the death tax is the effect it has on U.S. family-owned businesses. Many estates subject to the death tax are small or family businesses that are asset rich but cash poor; that is, their wealth is not sitting in liquid assets, such as stocks and bonds, but consists of physical assets, such as buildings, land, and machinery... [additionally,] capital is a key component of workers' productivity. The death tax, by reducing the level of capital available to workers, means that workers will have less opportunity to increase their own productivity, income, and wealth over their lifetimes.[23]

In late 2014, Heritage estimated that "eliminating the federal estate tax (and related gift taxes) would boost U.S. economic growth by more than $46 billion over the next 10 years and generate an average of 18,000 private-sector jobs annually."[24]

American families that have worked throughout their lives to save, provide for their families and children and, if they own a business, provide employment to others should not be forced to sell their family businesses to pay estate taxes once those who founded them pass away.

The Estate Tax is truly double taxation: small business owners pay taxes on their earned income during their lives, but once they die, if they meet the income threshold, their families are compelled to pay additional burdensome taxes on that same income.

When families thrive and accumulate capital, they have the opportunity to assist their neighbors by providing means of employment and economic growth to their community and country. The death tax is an undue burden on the family, and ought to be repealed. Tax policy should encourage saving and investment for the future, not penalize these necessary drivers of our economy.

In 2015, the House of Representatives voted to pass Rep. Kevin Brady's (R-Tex.) bill, the "Death Tax Repeal Act of 2015" (H.R. 1105).[25] This bill, which could have permanently repealed the federal death tax if it were also passed in the Senate and signed into law by President Obama, passed in the House of Representatives by a vote of 270-179. As Brady said at the time, "The Death Tax is an immoral tax and a calculated attack on the American Dream. It hurts our economy, punishes success and prevents family-owned businesses and farms from being passed down to the next generation. Over time it will steal the nest egg of minority and women-owned businesses, the fastest growing group of new start-ups in America who are building wealth for the very first time."[26]

Since then, a number of death tax repeal bills have been introduced ("Death Tax Repeal Act of 2017" (H.R. 198), "Permanently Repeal the Estate Tax of 2017" (H.R. 451)). It is high time both chambers of Congress move a bill to repeal the estate tax to protection American families from the devastation the death tax wreaks upon their economic well-being in the event of the death of their older family members. In fact, the Tax Framework does just that, suggesting a full repeal of the death (estate) tax by the 115th Congress.

Credit for Caring

U.S. Sen. Joni Ernst (R-Iowa) introduced the "Credit for Caring Act of 2017" (S. 1151), which provides up to $3,000 for eligible caregivers to incur expenses in providing long-term care for dependent relatives, whether that be a spouse, child, or elderly parent. Individuals are only eligible for this credit if they have earned income in excess of $7,500 in the taxable year. The Tax Framework also includes a credit for caring to help offset the costs for caregivers.

A credit for caring is a helpful credit for families that take on the burden of providing care for family members, even while maintaining a job outside of the home. The reimbursable expenses include, for example, building a ramp onto a home for a handicapped family member, medication management assistance, and costs associated with taking the dependent family member to health appointments. This credit will allow dependents who have long-term care needs to be effectively provided for by a family member. Unfortunately, far too many families are forced to send those who have long-term care needs to nursing homes where they are able to receive assistance and supervision. The credit for caring would allow families to recuperate costs associated with caring for those dependents at home, which generates a deeper satisfaction with care and life, generally, for the patient.

Child Tax Credit

The child tax credit is available to taxpayers who have a "qualifying child" within a family making less than $130K per year. The full $1,000 credit is only available if the family makes less than $110K per year. For a relatively small number of families, the child tax credit will exceed their tax liability, and a portion is refundable.

In December 2015, the House-Senate Joint Committee on Taxation noted in one of its "technical explanation" documents the following concerning the child tax credit:

> The aggregate amount of child credits that may be claimed is phased out for individuals with income over certain threshold amounts. Specifically, the otherwise allowable aggregate child tax credit amount is reduced by $50 for each $1,000 (or fraction thereof) of modified adjusted gross income ("modified AGI") over $75,000 for single individuals or heads of households, $110,000 for married individuals filing joint returns, and $55,000 for married individuals filing separate returns. For purposes of this limitation, modified AGI includes certain otherwise excludable income earned by U.S. citizens or residents living abroad or in certain U.S. territories.[27]

The document goes on to clarify certain other provisions of child tax credit law but does not address the larger question: Should the child tax credit be expanded with respect both to amount and income eligibility? And should it be extended from pregnancy to children living at home through the age of 18, given that many 18-year-olds remain in their parents' homes through their senior year of high school?

Extending and expanding the tax credit would appear justified by the data. Though pregnancy and starting a family are expensive endeavors, the Child Tax Credit does not currently apply to a child in the womb. Also, consider a recent (2014) report issued by the U.S. Department of Agriculture titled, "Expenditures on Children and Family."[28] The report says that "a middle-income family with a child born in 2013 can expect to spend about $245,340 ($304,480 adjusted for projected inflation*) for food, housing, childcare and education, and other child-rearing expenses up to age 18. Costs associated with pregnancy or expenses occurred after age 18, such as higher education, are not included (*projected inflationary costs are estimated to average 2.4 percent per year. This estimate is calculated by averaging the rate of inflation over the past 20 years)."[29]

As noted earlier, the median income is about $54,000, an amount distinct within total compensation. The annual cost of raising a child, based on the $245,340 figure noted in the previous paragraph, is $14,432. Even with various deductions and credits, covered insurance costs, and so forth, this is a significant drain on any family's finances.

Other benefits of the credit are documented in more technical literature. In a study published by the Internal Revenue Service and performed by economists from Harvard and Columbia universities and the National Bureau of Economic Research, it was found that "a $1,000 increase in tax credits raises students' test scores by 6% of a standard deviation, using our most conservative specification … higher scores increase students' probability of college attendance, raise earnings, reduce teenage birth rates, and improve the quality of the neighborhood in which their students live in adulthood. Our results suggest that a substantial fraction of the cost of tax credits may be offset by earnings gains in the long run."[30]

It is for this reason Family Research Council supports increasing the tax credit to between $2,500 and $5,000 per child per year, applying the Child Tax Credit to payroll tax liability (while continuing to fund it through the general treasury and maintaining at least partial refundability), and eliminating the marriage penalties that allow for larger credits for single individuals than those who are married.

Marriage Penalty

Marriage is good for individuals, men and women, their children, culture, and the economy.[31] This assertion is quantifiable. Yet federal tax policy continues to penalize it, even as many families require two income-earners to help with the cost of living, most especially costs associated with raising children.

"Congress hasn't caught up to the reality that most families need to have two incomes these days to live comfortably and save for the future," writes financial planner Steve Branton.[32] Those couples hit with the aptly-named "marriage penalty" would agree.

Marriage Penalty in the Tax Code

As noted by The Tax Foundation's Kyle Pomerleau, "the combined tax liability of a married couple may be higher or lower than their combined tax burden if they had remained single. This is called the marriage penalty or marriage bonus,"[33] but more often than not, marriage yields a penalty.

Here is how Pomerlau defines, respectively, the bonus and the penalty:

> The marriage bonus typically occurs when two individuals with disparate incomes marry. When an individual with a higher income marries and files jointly with an individual with a much smaller income, the additional income is usually not enough to push the couple's combined income into a higher tax bracket. However, due to the much wider income tax brackets for married individuals, a lot of the couple's income falls into lower tax brackets. The result is a lower tax bill...
>
> Marriage penalties typically occur when two individuals with equal incomes marry. There are marriage penalties for both high-income and low-income couples who fit this description. For high-income individuals, the marriage penalty exists because the income tax brackets for married

couples at the top of the income tax schedule are not twice as wide as the equivalent brackets for single individuals …

For low-income individuals, the Earned Income Tax Credit (EITC) has a significant impact on marriage penalties. Adding one partner's income to the other partner's income can easily push the combined income of the couple into the phase-out range of the Earned Income Tax Credit, resulting in a reduction of the couple's combined after-tax income.[34]

While the "bonus" is a welcome benefit, FRC contends that in an era in which marriage rates are declining[35] and that marriage itself continues to offer numerous benefits (especially for children) unavailable through any other social institution,[36] any disincentive for marriage should be expunged from the federal tax code.

"The U.S. income tax penalizes marriage because the income thresholds for married couples are not double those for individual filers," write Douglas Besharov and Neil Gilbert in their recent study, "Marriage Penalties in the Modern Social-Welfare State."

This exposes married couples to higher marginal tax rates (after the 15 percent tax bracket). Additional taxes—such as the Net Investment Income Tax and the Additional Medicare Tax—kick in at lower income levels than when the couple were individual filers. The Alternative Minimum Tax penalizes marriage, because it begins to reduce exemptions and phase-outs at lower income levels for married couples than for individual filers. Deductions for net capital losses penalize marriage because an unmarried couple can claim two net capital loss deductions, while a married couple can only claim one, representing a loss of up to $3,000.[37]

Similarly, in "The President's Marriage Agenda for the Forgotten Sixty Percent," a 2012 joint publication of the University of Virginia's National Marriage Project and the Institute for American Values, scholars cite the substantial loss of income incurred by lower-income couples who marry:

The U.S. tax and transfer (welfare) systems *(see below)* frequently impose substantial financial penalties on low-income couples who choose to marry. In relative terms, these marriage penalties tend to be much greater than those experienced by non-poor couples, and in some cases amount to family income losses of 20 percent or more. These marriage-discouraging financial penalties markedly undermine efforts to strengthen marriage among low-income Americans, contributing to their inability to reach or sustain themselves in the middle class.[38]

As has been well-documented, the marriage penalty in the tax code adversely affects family income as well as marriage itself, depriving society of marriage's many benefits.[39] Writing in the *Seton Hall Legislative Journal*, tax attorney Kevin M. Walsh of PricewaterhouseCoopers International Tax Services concludes:

The [federal tax] Code currently operates inefficiently with respect to married individuals. For some married taxpayers, the Code imposes a marriage penalty because the government taxes the married couple at higher rates sooner than it taxes single taxpayers for the same level of income. The secondary earner's income is deemed to be "stacked" on top of the primary earner's income, and the secondary earner's income is taxed at the primary earner's marginal rate, which can be very high.[40]

These marriage penalties have incentivized cohabitation without the permanency that marriage encourages because couples who simply live together do not suffer the same penalties as those who marry. It is important for Congress to address the marriage penalties in both the tax code and welfare programs.

Marriage Penalty in the Federal Welfare and Health Care Regimes

The marriage penalty largely adversely affects lower-income couples who marry and are also recipients of federal welfare benefits. As explained by Temple University professor Spencer Rand:

> On marriage, people lose welfare benefits abruptly. It is devastating to them, diminishing and in some cases overwhelming any economic benefits of marriage … It is also a surprising and unintended outcome of policymakers, who since at least Reconstruction and with much fanfare in the 1996 welfare reform touted marriage for the poor as a self-help measure and poverty cure … Low-income people tend to marry each other. Both incomes need to be brought into the home to raise people out of poverty. When people lose welfare on marrying, the family's combined income is often lower than if they had stayed separated or chose to live together without marrying.[41]

Robert Rector, one of the architects of the historic and substantially successful 1996 welfare reform plan signed into law by Bill Clinton, offers examples of how marriage can adversely affect welfare recipients:

> … A single mother with two children who earns $15,000 per year will generally receive around $5,200 per year from the Food Stamp program. However, if she marries a father with the same earnings level, her food stamps would be cut to zero. A single mother receiving public housing benefits would receive a subsidy worth on average around $11,000 per year if she was not employed. But if she married a man earning $20,000 per year, these benefits would be cut nearly in half.[42]

In the same way, the Affordable Care Act (commonly known as Obamacare) also penalizes marriage. Besharov and Gilbert, writing in *The Weekly Standard* in 2015, note:

> … The Affordable Care Act subsidizes health-insurance premiums for households making between 133 percent and 400 percent of the poverty line. For each additional dollar earned, households are required to contribute a higher percentage of their income. For a family of three earning between $59,370 and $79,160, the ACA subsidy is a flat 9.5 percent of household income. If the couple is unmarried, each partner qualifies separately for the subsidy, even if they live together. But if they are married, their combined income reduces their subsidy and may disqualify them altogether. If one spouse earns a lot more than the other, they may lose as much as $3,486 in subsidies.[43]

While the 115th Congress has not yet proposed bills directly addressing marriage penalties in the tax and welfare schemes, Rep. Glenn Grothman (R-Wis.) has introduced H.Res. 399, expressing the sense of the House of Representatives that welfare programs discourage marriage and hurt the institution of the family in the United States. While this resolution is laudable, it is non-binding. Congress needs to pass binding legislation that permanently dispenses with penalizing low-income individuals who marry. Given the economic benefits of marriage, it is likely that individuals who marry will have a diminishing dependence on federal welfare programs as married individuals' incomes rise.

In sum, punishing people for getting married by escalating their federal taxes makes neither economic nor social sense. Policymakers should address these ongoing and damaging provisions of the federal tax code.

Conclusion

"Family Research Council believes, and social science has now clearly demonstrated, that children do best when raised by their own biological mother and father who are committed to one another in a lifelong marriage."[44] This is one of FRC's core convictions.

We also maintain that a strong family is the foundation of a strong economy. The economic and social science data affirm this. We have previously stated that "the economy grows and stabilizes when men and women get married, stay married, worship weekly, and have three or more children. Legislative and regulatory policies are insufficient to ensure family and social health. But such policies can and should be developed to minimize or eliminate the obstacles to healthy (even large) families."[45]

Given the unchanging character of human nature and functional family structure, these claims will continue to be relevant indefinitely. National tax policy should reflect our country's commitment to the well-being of families. Until comprehensive changes are made to make our tax code fairer, simpler, and more efficient, the four items noted in this paper will remain imperative for America's families and, thereby, for America's overall economic prosperity.

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