

## How De Facto Optional Filing Demands Marriage Penalty Relief

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Document date: June 05, 2000

Released online: June 05, 2000

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Marriage penalty relief has remained a central focus of attention in Congress this year. In public, Republicans are presented as supporting legislation that would help income taxpayers up into the upper-middle income classes, while Democrats are portrayed as wanting to limit relief to those at somewhat lower income levels to save on costs. In private, however, it seems that support for marriage penalty relief is lukewarm in both parties. The main concern seems to be the budget: there's a lot of other things both Republicans and Democrats would like to do with the projected budget surplus, ranging from spending, to providing other tax relief, to saving more of it.

Unfortunately for many lawmakers, the issue of marriage penalties simply won't go away. In the first place, compared to previous decades, there are many more two-earner couples today with earnings that are not widely separated. That adds to the numbers of those hit with penalties every year. Equally important, the number of couples who cohabit without a marriage license has increased dramatically at all age levels, adding to the sense of inequity among those who are married and pay higher taxes simply because of their vows to each other. In effect, marriage penalties today are voluntary for all except those committed to formal marriage as an institution, sacrament, or way of life.

Many analysts are also lukewarm on marriage penalty relief. Typically, they note the inevitable problems that arise when one tries to tax households in a progressive tax system. If the system moves toward single filing for all people, then married couples whose incomes are unevenly split would pay more tax than those whose incomes are evenly split. If the tax system provides the type of tax-bracket-widening proposed in current bills being considered, then two singles, each with earnings, are liable to pay more tax than a married couple with a similar amount of combined income.

Those who support marriage penalties base their belief partly on economies of scale in marriage. The notion is that two persons living together can live more cheaply than two living apart. The couple needs only one place to live and can get by with one TV and one set of pots and pans. In effect, their net "income" is higher.

Although the notion of economies of scale may appear abstract, it permeates most government policy. The official "poverty" scales developed by government imply that for a married couple \$128 goes as far as does \$200 for two single individuals living separately. Programs built around relieving individuals from poverty tend also to impose very large marriage penalties when the "poverty" scale is used as a device to determine who should be eligible.

None of these arguments is without some merit. Marriage penalty relief is likely to create some circumstances in which at equal total income levels two singles will pay higher taxes than a couple, or one couple will pay higher taxes than another couple. And, of course, there are economies of scale in living together. But what pushes the issue over the edge—and increases significantly the case for reducing or removing marriage penalties—is that the system is already optional for all but those who simply believe in formal marriage.

The plain fact is that there are all sorts of living arrangements today. A very large percentage of single individuals live with others. Cohabitating couples are only the tip of the iceberg. People live together in dormitories and nursing homes. Friends and relatives constantly share living quarters. Often young adults return home and live with parents for awhile.

Living together and sharing resources is a natural condition of the human species. Occasionally an individual is able to do some things separately—like live in a separate home—but even then it is usually because other economies of scale, such as in food production, clothing manufacture, and distribution of utility services, have made it economically feasible to have some separateness in a still interdependent society.

The economies-of-scale argument unravels in the presence of so much cooperation and sharing in society. If

one should tax married couples more because of the advantages they derive from living together, then one should also increase taxes on nuns living in convents together and soldiers sharing barracks.

Flip the argument the other way. If it is natural and normal for people to share together, then the current tax system can be seen to subsidize those who do not share. But if the goal were to subsidize separate living arrangements, why would we rely on the lack of a marriage license as the only measure of separateness?

Taxing economies of scale, therefore, falls apart less because of irrationality and more because it cannot be enforced equitably. Once individuals can freely choose to live together without marriage licenses, then optional filing as married or single has already become the norm. Denying that privilege only to married individuals is capricious and arbitrary. Indeed, in some states unmarried couples in practice can get the best of both worlds—file as singles and avoid a marriage penalty in the income tax, but then claim a common law marriage when it is time to get social security and claim a marriage bonus.

Because simply extending optional single filing is complex, Congress is moving instead toward providing so-called income splitting for married couples—a procedure that ensures that no matter what the split of income, the married couple will not pay more than two singles living separately. That tends to increase marriage bonuses, which are fairly modest at low-income levels but can be more substantial at higher income levels.

One way to avoid giving too many bonuses at those higher income levels is essentially to grant income splitting only up to a given amount of income, and beyond that level to require single filing for all earnings and for property not jointly owned. Congress is wary of this add-on because it would create some losers. That is, mandatory single filing for some high-income individuals would remove marriage penalties for higher-income individuals essentially by taking away marriage bonuses for others at the same income levels.

Clearly the legislative response to existing marriage penalties is not simple; it still involves some trade-offs both administratively and politically. Nonetheless, a tax world in which single filing is available to all who share resources and even beds but not to those who happen to believe in marriage vows is too capricious and arbitrary to remain standing. Our system of de facto, optional, single filing forces Congress to respond whether it likes it or not.

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