

The Marriage Tax Penalty in 2019

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Many people believe Congress enacted legislation to eliminate the Marriage Tax Penalty for low income taxpayers. This paper investigates this belief and finds though Congress has enacted legislation to reduce or eliminate the Marriage Tax Penalty, many low income taxpayers still suffer from a substantial Marriage Tax Penalty. In 2019, a married couple with two children where each spouse earned \$18,000 incurred a Marriage Tax Penalty of \$3,584.00. This represents about 10% of their total income.

Keywords: taxes, marriage tax penalty, tax legislation

INTRODUCTION

The Marriage Tax Penalty starts with a married couple. Though the roots of the penalty go back to a time when single taxpayers were at a disadvantage when compared to married couples, the penalty starts with two married people.

The Marriage Tax Penalty stems from the fact two single filers living together and earning the same income as a married couple living together may pay a lower tax depending on the amount of income earned by each individual. If the single couple living together pay a tax lower than a like married couple the result is a tax penalty for the married couple.

Nature of the Penalty

The Marriage Tax Penalty is the excess that married couples pay compare to two unmarried cohabating single taxpayers. Over the years, the penalty is the result of graduated marginal rates, the standard deduction, tax deductions that are income tested, and various tax credits.

Graduated marginal rates tax higher levels of income at higher rates. Married couples get hit with higher rates at lower levels of income.

The standard deduction is a deduction to taxpayers in lieu of itemized deductions. The standard deduction for married couples filing joint is now the same as for two single taxpayers. This is why some believe low-income taxpayers do not suffer from the Marriage Tax Penalty.

Then we have some deductions and credits income tested. The threshold where the deduction of credit is lost differs for married versus single the difference causing the marriage tax penalty.

A generalization would be the closer the two married people are in regard to earnings, the more likely a penalty will result. So if a married couple earns \$30,000 joint income and the earnings are split \$15,000 and \$15,000 the result will be a substantial marriage tax penalty.

Historical Perspective of Marriage Tax Penalty

Before 1948 all taxpayers filed individually. Married or single, taxpayers filed individually. However, in 1948 congress enacted a joint filing status for married couples. The joint status came with a separate rate schedule. The intent was to bring equity to the states that were common law states.

The 1948 legislation created a separate tax rate schedule to attempt equity for married couples in common law states and those in community states. Prior to this legislation couples in community property states had a tax advantage over those in common law states. A consequence of this legislation, most likely unintended, was to place a substantially higher tax on single individuals when compared to married couples with like income.

The result of this change in the law in 1948 was to create a bonus for being married. This change also ushered in an era when single taxpayers could pay 20 or 30 and even 40% more in taxes than a married couple with similar income

For 20 years, single taxpayers complained about the unfair treatment they were afforded when compared to married couples with the same income. The result of the complaining by single individuals led to the tax reform act of 1969.

The Tax Reform Act of 1969 set single filer and joint filer rates within 20% of each other by resetting the standard deduction and tax bracket breaking points. By doing this congress created a marriage penalty for married couples when both worked outside the home. Many believe congress intentionally created the marriage penalty to prevent a single-earner family from paying less in taxes than a single taxpayer with the same amount of income.

But times changed greatly since 1969. The number of two earner married couples has increased substantially. The result is a substantial increase in the number of married couples subject to the penalty.

Many believe the Marriage Tax Penalty causes more unmarried cohabitation, discourages marriage, and even leads to more divorces. The matter of more divorces caught the attention of the IRS to the extent a Revenue Ruling dealing with divorce was issued.

This particular quirk in the tax law gave rise to a new category of American couples. The Census Bureau now has a name for couples who divorce and simply live together out of wedlock in order to save taxes. The Census bureau estimates about 5 million couples now live in this manner. The name given these couples is POSSLQs—Persons of the opposite sex sharing living quarters.

In addition to Revenue Ruling 76-253, the IRS issued Letter Ruling 7719014. This ruling was the result of crafty lawyers drafting an agreement between two unmarried people whereby if the two married they would conduct all their financial matters, including taxes, as if they were not married. The IRS did not go for this. However, this letter ruling makes it clear married couples must follow the tax law as a married couple regardless of any agreement signed before or after the wedding.

Revenue Ruling 76-253 was enacted to cut back on couples divorcing and the remarrying just to save taxes. The ruling specifies the IRS will disregard a divorce obtained just for the purpose of saving taxes. The ruling further states if the IRS determines the divorce was indeed solely for the purpose of saving on taxes the IRS will require the couple to recalculate their taxes as if they had stayed married for the entire year. The recalculation opens up the couple for more taxes, interest, and possibly penalties.

H. R. 4810, passed by the house and senate in 2000, was a serious step in the direction of eliminating the marriage tax penalty. However, President Clinton vetoed the legislation because he believed the revenue flow generated by the marriage penalty needed to continue in order to pay down the debt and keep Social Security and Medicare viable.

The big change in the Marriage Tax penalty happened in 2003. In 2003 the Jobs and Growth Tax Relief Reconciliation act of 2003 reduced the impact of the marriage penalty on married couples to the extent the penalty disappeared for some married couples. This paper will show an unintended consequence of this 2003 act was to shift the burden of the Marriage Tax Penalty to lower income married couples, especially those with children.

Current Views of the Marriage Tax Penalty

Now, let's consider what some individuals are saying about the Marriage Tax Penalty and low income earning married couples.

Julian Block is considered a leading tax expert. He has written multiple books on the topic of taxes. The New York Times and the Wall Street Journal consider Mr. Block a leading expert when it comes to taxes.

In an article titled Julian Block's Tax Tips for Marriage and Divorce; Savvy ways for couples to trim their taxes, Block discusses the Marriage Tax Penalty. He writes about a mythical couple John and Mary. In his article, Mr. Block writes: John and Mary both work and have similar incomes....The penalty occurs when a married couple's combined income pushes them into a higher tax bracket than they would have been in if they filed as single individuals... John and Mary need not fret about the penalty when each has taxable income under the top end of the 15 percent bracket for singles. Married or unmarried, they stay within the 15 percent bracket....The penalty escalates when each one's taxable income increases to \$110,000. There's an easy way for John and Mary to sidestep the marriage penalty for 2010. All they need to do is postpone getting hitched until 2011. (Bond, 2011).

The statement implies the couple will not be subject to any kind of Marriage Tax penalty if they are low income. The evidence in this paper is contrary to this assertion by Mr. Block.

The Family Research Council (FRC) is an American conservative Christian group lobbying organization formed in the United States in 1981 by James Dobson. Tom McClusky is currently the Senior Vice-President of the Family Research Council.

In his article, "Fiscal Cliff Deal Penalizes Married Couples, Mr. McClusky wrote: The marriage penalty targets these two-income families for higher taxes....Prior to 2001, many married couples paid a "penalty" because their standard deductions and income tax brackets were less than twice those of singles...Unfortunately, the penalty that the tax code gives to married couples never went away for those in higher tax brackets... The 112th Congress should be applauded for rescuing married couples in the 15 percent and lower brackets. Yet if this marriage penalty is bad policy at 15 percent, what makes it good policy to penalize marriage at other levels? (Mcclusky, 2013).

Jim Wang is a Personal Finance contributor to U. S. News and World Report. In his article how much the Marriage Tax Penalty will cost you, he wrote: "When talking about marriage and money, most experts talk about the tax advantages of getting married. However, these tax advantages are often only available to married partners with large disparities in income....Sadly, spouses who earn similar amounts of money – especially those who are considered high earners – are often subject to a marriage tax penalty" (Wang, 2014).

Kimberly Palmer in her article How to avoid the Marriage Tax wrote for Money Magazine: "According to Mark Luscombe, a tax analyst for the firm CCH, that's a common scenario for high-earning, married couples. While Congress extended relief from the marriage penalty in the 10 and 15 percent tax brackets, those in higher tax brackets could still pay more. That means they could pay more than they would if they were single, earning the same amount". (Palmer, 2012).

Even Wikipedia participates in the misconception low income married taxpayers do not suffer a tax penalty from being married. Wikipedia Editors write, "The **marriage penalty** in the United States refers to the higher taxes required from some married couples with both partners earning income that would not be required by two otherwise identical single people with exactly the same incomes. Multiple factors are involved, but in general lower to middle income couples usually benefit from filing as a married couple, while upper income couples are often penalized. The percentage of couples affected has varied over the years, depending on shifts in tax rates". 7/10/2013

An article written in the Financial Samurai notes: "With the passage of new tax reform for 2018 and beyond, the marriage penalty tax is now practically abolished. Based on the new federal income tax brackets below, there is tax EQUALITY up until \$300,000 per person". (Financial Samurai, 2018).

In Addition, the article notes: "The only visible marriage penalty tax from the chart comes in the form of two individuals making over \$500,000 a year." This article is clear in stating a belief the marriage tax penalty is virtually gone and exists only for high income taxpayers.

A recent article noted the impact of the Marriage Tax Penalty on low income taxpayers when the Earned income tax credit was included. This is a step in the right direction with respect to knowledge about how the marriage tax penalty may impact low-income married couples.

The article notes: “The TCJA clearly has not removed the marriage penalty tax for taxpayers who qualify for the EITC. In fact, the marriage penalty affects even low-income and moderate-income earners where the EITC is concerned” (Rubenfield and Pandit, 2020).

However, the article does not provide any evidence concerning the magnitude of the marriage tax penalty for married couples when the earned income tax credit is part of the tax calculations. There are no numbers showing the amount of the Penalty.

In summary, we read where leading tax experts, the Vice-President of a leading Conservative Christian group, and even in a less reliable source Wikipedia, all report the belief low income married taxpayers do not suffer from the Marriage Tax penalty. Evidence in this paper shows low income married couples with children incurs a significant Marriage Tax penalty.

Analysis of Data

Table one shows data for a couple with two children where each taxpayer works outside the home and earns \$15,000 per year. This represents the annual salary of someone earning the Federal minimum wage. The table shows a married couple under these conditions will receive a federal tax refund of \$7,532.

However, if a couple under the same circumstances were a cohabitating unmarried couple, the federal tax refund would amount to \$9,852. Thus, the marriage tax penalty for the married couple is \$2,320. This penalty represents about 6.5% of the combined gross income for the married couple.

Table two shows data for a couple with two children where each person works outside the home and earns \$35,000 per year. This represents the annual salary of someone earning about \$17.00 per hours. The table shows a married couple under these conditions will owe \$1,087 in Federal income taxes.

However, if a couple under the same circumstances remained unmarried, the Federal tax due is \$1,087. Thus, the Marriage Tax penalty for the married couple is \$1,937. This penalty represents about 3% of the combined gross income for the married couple.

Tables one and two show an interesting aspect of the marriage tax penalty. A married couple where each spouse earns minimum wage (combined income of \$30,000) incurs a marriage tax penalty in excess of what a married couple with a combined annual income of \$70,000.

Table three shows data for a married couple with two children where each person works outside the home and earns \$20,800 (\$10 per hour). The married couple would have a refund due of \$4,566. However, if the couple lived together and were not married, the refund would amount to \$8,752. The result is a marriage tax penalty of \$4,186. The penalty represents about 10% of the combined gross income.

Table four shows data for a married couple with two children where each person earns \$64,000 and a combined income of \$128,000. Under these conditions, the married couple would owe \$10,506 in Federal income taxes. If the same couple lived together and were not married, the tax due is \$10,520. The table shows at a point where each individual earns over \$30 per hour, the marriage tax penalty is eliminated.

Table five shows what happens when you have a household with two children where each person works outside the home but one person earns substantially more than the other. A married couple earning a combined income of \$55,000 where one person earns \$34,200 and the other earns \$20,800, the federal income tax refund is \$617.

However, if a couple under the same circumstances remained unmarried, the Federal tax refund is \$4,801. The result is a marriage tax penalty of \$4,184 for the married couple. This represents about 7% of the combined gross income of the married couple.

TABLE 1

<i>TAX YEAR</i>	<i>2019</i>			
<i>MARRIED</i>	<i>TAXPAYERS</i>		<i>SAME</i>	<i>TAXPAYERS</i>
<i>TWO</i>	<i>DEPENDENTS</i>		<i>FILING AS</i>	<i>SINGLE</i>
			<i>PAT</i>	<i>KIM</i>
	<i>PAT EARNS</i>	<i>15000</i>	<i>15000</i>	<i>15000</i>
	<i>KIM EARNS</i>	<i>15000</i>		
	<i>TOTAL</i>	<i>30000</i>	<i>15000</i>	<i>15000</i>
	<i>STD DEDUCT</i>	<i>24400</i>	<i>12200</i>	<i>12200</i>
	<i>TAXABLE INCOME</i>	<i>5600</i>	<i>2800</i>	<i>2800</i>
	<i>TAX DUE</i>	<i>563</i>	<i>281</i>	<i>281</i>
	<i>CHILD TAX CREDIT</i>	<i>563</i>	<i>281</i>	<i>281</i>
	<i>REG TAX</i>	<i>0</i>	<i>0</i>	<i>0</i>
	<i>EITC</i>	<i>4732</i>	<i>3526</i>	<i>3526</i>
	<i>ADDITIONAL CHILD CR</i>	<i>2800</i>	<i>1400</i>	<i>1400</i>
	<i>TAX DUE OR REFUND (-)</i>	<i>-7532</i>	<i>-4926</i>	<i>-4926</i>
		<i>MARRIED TAX</i>	<i>-7532</i>	
		<i>SINGLE TAX</i>	<i>-9852</i>	
		<i>MARRIAGE TAX PENALTY</i>	<i>\$2,320</i>	

TABLE 2

<i>TAX YEAR</i>	<i>2019</i>			
<i>MARRIED</i>	<i>TAXPAYERS</i>		<i>SAME</i>	<i>TAXPAYERS</i>
<i>TWO</i>	<i>DEPENDENTS</i>		<i>FILING AS</i>	<i>SINGLE</i>
			<i>PAT</i>	<i>KIM</i>
	<i>PAT EARNS</i>	<i>35000</i>	<i>35000</i>	<i>35000</i>
	<i>KIM EARNS</i>	<i>35000</i>		
	<i>TOTAL</i>	<i>70000</i>	<i>35000</i>	<i>35000</i>
	<i>STD DEDUCT</i>	<i>24400</i>	<i>12200</i>	<i>12200</i>
	<i>TAXABLE INCOME</i>	<i>45600</i>	<i>22800</i>	<i>22800</i>
	<i>TAX DUE</i>	<i>5087</i>	<i>2545</i>	<i>2545</i>
	<i>CHILD TAX CREDIT</i>	<i>4000</i>	<i>2000</i>	<i>2000</i>
	<i>REG TAX</i>	<i>1087</i>	<i>545</i>	<i>545</i>
	<i>EITC</i>	<i>0</i>	<i>970</i>	<i>970</i>
	<i>ADDITIONAL CHILD CR</i>		<i>0</i>	<i>0</i>
	<i>TAX DUE OR REFUND (-)</i>	<i>1087</i>	<i>-425</i>	<i>-425</i>
		<i>MARRIED TAX</i>	<i>1087</i>	
		<i>SINGLE TAX</i>	<i>-850</i>	
		<i>MARRIAGE TAX PENALTY</i>	<i>\$1,937</i>	

TABLE 3

<i>TAX YEAR</i>	<i>2019</i>			
<i>MARRIED</i>	<i>TAXPAYERS</i>		<i>SAME</i>	<i>TAXPAYERS</i>
<i>TWO</i>	<i>DEPENDENTS</i>		<i>FILING AS</i>	<i>SINGLE</i>
			<i>PAT</i>	<i>KIM</i>
	<i>PAT EARNS</i>	<i>20800</i>	<i>20800</i>	<i>20800</i>
	<i>KIM EARNS</i>	<i>20800</i>		
	<i>TOTAL</i>	<i>41600</i>	<i>20800</i>	<i>20800</i>
	<i>STD DEDUCT</i>	<i>24400</i>	<i>12200</i>	<i>12200</i>
	<i>TAXABLE INCOME</i>	<i>17200</i>	<i>8600</i>	<i>8600</i>
	<i>TAX DUE</i>	<i>1723</i>	<i>863</i>	<i>863</i>
	<i>CHILD TAX CREDIT</i>	<i>1723</i>	<i>863</i>	<i>863</i>
	<i>REG TAX</i>	<i>0</i>	<i>0</i>	<i>0</i>
	<i>EITC</i>	<i>2289</i>	<i>3239</i>	<i>3239</i>
	<i>ADDITIONAL CHILD CR</i>	<i>2277</i>	<i>1137</i>	<i>1137</i>
	<i>TAX DUE OR REFUND (-)</i>	<i>-4566</i>	<i>-4376</i>	<i>-4376</i>
		<i>MARRIED TAX</i>	<i>-4566</i>	
		<i>SINGLE TAX</i>	<i>-8752</i>	
		<i>MARRIAGE TAX PENALTY</i>	<i>\$4,186</i>	

TABLE 4

<i>TAX YEAR</i>	<i>2019</i>			
<i>MARRIED</i>	<i>TAXPAYERS</i>		<i>SAME</i>	<i>TAXPAYERS</i>
<i>TWO</i>	<i>DEPENDENTS</i>		<i>FILING AS</i>	<i>SINGLE</i>
			<i>PAT</i>	<i>KIM</i>
	<i>PAT EARNS</i>	<i>64000</i>	<i>64000</i>	<i>64000</i>
	<i>KIM EARNS</i>	<i>64000</i>		
	<i>TOTAL</i>	<i>128000</i>	<i>64000</i>	<i>64000</i>
	<i>STD DEDUCT</i>	<i>24400</i>	<i>12200</i>	<i>12200</i>
	<i>TAXABLE INCOME</i>	<i>103600</i>	<i>51800</i>	<i>51800</i>
	<i>TAX DUE</i>	<i>14505</i>	<i>7260</i>	<i>7260</i>
	<i>CHILD TAX CREDIT</i>	<i>4000</i>	<i>2000</i>	<i>2000</i>
	<i>REG TAX</i>	<i>10509</i>	<i>5260</i>	<i>5260</i>
	<i>EITC</i>	<i>0</i>		
	<i>ADDITIONAL CHILD CR</i>	<i>0</i>	<i>0</i>	
	<i>TAX DUE OR REFUND (-)</i>	<i>10509</i>	<i>5260</i>	<i>5260</i>
		<i>MARRIED TAX</i>	<i>10509</i>	
		<i>SINGLE TAX</i>	<i>10520</i>	
		<i>MARRIAGE TAX PENALTY</i>	<i>(\$11)</i>	

TABLE 5

<i>TAX YEAR</i>	<i>2019</i>			
<i>MARRIED</i>	<i>TAXPAYERS</i>		<i>SAME</i>	<i>TAXPAYERS</i>
<i>TWO</i>	<i>DEPENDENTS</i>		<i>FILING AS</i>	<i>SINGLE</i>
			<i>PAT</i>	<i>KIM</i>
	<i>PAT EARNS</i>	<i>35000</i>	<i>20800</i>	<i>35000</i>
	<i>KIM EARNS</i>	<i>20800</i>		
	<i>TOTAL</i>	<i>55800</i>	<i>20800</i>	<i>35000</i>
	<i>STD DEDUCT</i>	<i>24400</i>	<i>12200</i>	<i>12200</i>
	<i>TAXABLE INCOME</i>	<i>31400</i>	<i>8600</i>	<i>22800</i>
	<i>TAX DUE</i>	<i>3383</i>	<i>863</i>	<i>2545</i>
	<i>CHILD TAX CREDIT</i>	<i>3383</i>	<i>863</i>	<i>2000</i>
	<i>REG TAX</i>	<i>0</i>	<i>0</i>	<i>545</i>
	<i>EITC</i>	<i>0</i>	<i>3239</i>	<i>970</i>
	<i>ADDITIONAL CHILD CR</i>	<i>617</i>	<i>1137</i>	
	<i>TAX DUE OR REFUND (-)</i>	<i>-617</i>	<i>-4376</i>	<i>-425</i>
		<i>MARRIED TAX</i>	<i>-617</i>	
		<i>SINGLE TAX</i>	<i>-4801</i>	
		<i>MARRIAGE TAX PENALTY</i>	<i>\$4,184</i>	

CONCLUSIONS

Regardless of what congress thinks, what leading tax experts think, what conservative Christians think, or even what the editors of Wikipedia think, the marriage tax penalty severely penalizes low income married couples with children. So long as leading experts and authorities continue to believe this misconception low income married taxpayers with children will continue to pay a large penalty to stay married. The Census Bureau may soon have to revise upwards its estimate of POSSLQ's.

The math is clear. 100% of Married couples with two or more children in a household where both spouses work outside the home pay a marriage tax penalty. Thus, similar households where couples stay unmarried save thousands of dollars annually by remaining unmarried.

The most significant burden in regard to the Marriage Tax Penalty is borne by low income married couples with children. This paper demonstrates taxpayers in this category pay thousands of dollars for the Marriage Tax Penalty.

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