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THE MARRIAGE PENALTY/BONUS DEBATE IN BLACK AND WHITE

Professor Dorothy A. Brown

PROF. BROWN:** Many scholars have debated the marriage penalty bonus issue, some this morning. Those scholars have proposed solutions ranging from individual filing requirements to increased deductions for secondary wage earners. I submit, all such solutions have limited impact because they are built upon a model in which all women are assumed to be the same. If a solution to the marriage penalty/bonus issue is to help women in today's society, those differences must be explored. I would like to begin by introducing you to what is this marriage penalty/bonus that we have been talking about all morning.

By and large, the marriage penalty/bonus issue is a function of how husbands and wives contribute income to their households. If you look at income allocation, you have the 0 percent/100 percent category, which is what the earlier panel referred to as sole wage-earner households, we have 10/90, 20/80, 30/70, 40/60 and 50/50 income allocations between spouses. I want you to focus on the extremes. The 100/0 category has all positive numbers that is called the marriage bonus. Whenever you have a household where one individual works in the paid labor market and is the sole paid labor earner you will have a marriage bonus. Let's look at the other extreme, the 50/50 extreme. This gets you into the marriage penalty category. The penalty is the most extreme in households where the husbands and wives contribute equal amounts to household income. I believe it is a little peculiar that the Internal Revenue Code would discourage the formation of families where spouses are coequal providers, but I digress. So, we see these different categories and the penalty in the 40/60 category. One of the interesting things about this and the statistics brought out in the earlier panel, is that you have no knowledge regarding which couples pay the marriage penalty and

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which couples receive the marriage bonus.

My scholarship has been dedicated to uncovering the racial impact of the federal tax laws. That is a little difficult to do since the Internal Revenue Service does not keep statistics by race. What I have done is use a proxy for the Internal Revenue Service statistics, which is Census Bureau data, and I would like to share with you some of my results.¹ First, we begin by looking at African-American household income allocation between husband and wife, in particular, the contribution percentages. At the \$0 to \$10,000 income level approximately 84 percent of households are sole wage-earner households, about 5 percent of which are in the marriage penalty category. A substantial amount — 63.25% — is in the marriage bonus category when you get to the \$10,000 to \$20,000 income level.

I would submit to you that part of why we have sole wage earners at low-income levels is a function of how the Earned Income Tax Credit works. One of the things that the literature on the Earned Income Tax Credit has not done is really show us which taxpayers are most likely to benefit from the Earned Income Tax Credit. We know who it is written for, but who actually takes advantage of it? So far, the scholarly literature has not addressed this issue and it is one of my summer projects.

Now, if you move up in the income category, you see the largest percentage of households are in the marriage penalty contribution category. My data shows that a disproportionate amount of African-American married couples pay a marriage penalty; they are in the 60/40, 50/50 split. Notice the category increases to 33 percent, 38, 43, 46, and to almost 50 percent at the upper income levels. You see that the highest percentages of African-American couples are in the penalty category. 33 percent is greater than any other category and it does not change until we get to \$120,000 and over category, then we have more Black couples in the bonus category than in the penalty category.

If you look at White households, you see some major differences, but you also see one similarity that I would like to point out at the lower income levels. Again, we have about 87 percent of

¹ See also Dorothy Brown, *The Marriage Penalty/Bonus Debate: Legislative Issues in Black and White*, 16 N.Y. L. SCH. J. HUM. RTS. 287 (1999).

White, low-income households with sole wage-earners earning under \$10,000 and we had 63.25 percent of the African-American households, if you remember the statistics, earning under \$20,000. These numbers are very close. Again, I submit to you, it is more a function of how the Earned Income Tax Credit works and the penalties within the Earned Income Tax Credit that really force couples to have only one wage earner. Now, in the marriage bonus category for White households, you see higher percentages in the marriage bonus category and you also see lower percentages in the marriage penalty category. One thing that is interesting, in White households earning between \$60,000 and \$90,000, there are more households paying the marriage penalty than are receiving the marriage bonus. As such, middle income White households are more likely to pay a penalty than they are to receive a bonus.

When you compare White and Black households, with respect to the marriage bonus, you see that in every category there is a higher percentage of White households receiving a marriage bonus than African-American households. Although I will acknowledge that limiting my research to White and Black households does a disservice to all the other racial and ethnic groups, I can not tell you how difficult it was to get the White and Black data. For a future research project of mine, I will have a richer examination of minority households. Thus, we see at every single income level a significantly greater amount of White households that receive the marriage bonus.

Concerning the marriage penalty we have the opposite results. At every income level what we see are African-American couples paying the penalty or a higher percentage of African-American couples in the penalty category than there are in White households. Therefore, at every single household income level you notice a great disparity. This is particularly true when we are talking about the fact that 40 to almost 50 percent of Black married couples at those income levels are paying a penalty as compared to White couples that are paying a penalty.

One of the problems I have with the literature, generally, is it treats all women the same. All women are not the same, particularly, when we are talking about women who are co-providers. Those co-providers are, for the most part, African-American woman who are contributing equal amounts to household income, as well as White

middle income wives, who are contributing roughly equal amounts to household income in the \$60,000 to \$90,000 category.²

What does this tell us with respect to proposed legislation? First of all, I want to discuss a few proposals. Increasing the standard deduction would increase the standard deduction for joint returns to a level exactly twice that of an individual return. It would not, however, eliminate the marriage penalty for those filing itemized deductions; it only addresses those that are standard deduction taxpayers. I have been able to get Internal Revenue Service statistics that suggest that in 1996, of those married and filing jointly, approximately 54 percent filed using itemized deductions and 46 percent filed using the standard deductions.³ Therefore, based on the 1996 tax return data, the majority of taxpayers filing joint returns would not be greatly assisted by this proposal.

Another proposal is adjusting the Earned Income Tax Credit. The effectiveness of this proposal will depend upon which couples benefit from the Earned Income Tax Credit and very little scholarly research has been done that examines who actually benefits from the Earned Income Tax Credit. My data suggests, however, that the majority of the households eligible are single wage-earner households, as we just discussed.⁴ One legislative solution is to increase the Earned Income Tax Credit phase-out, which would minimize those taxpayers losing the Earned Income Tax Credit. I think, this is certainly a worth while proposal, particularly given the similarity between White and Black households at the lower income levels. This proposal would help both groups. One of my concerns is that whatever proposal we come up with, I do not want to disproportionately help White households and disproportionately hurt the Black households. Ameliorating the marriage penalty and the Earned Income Tax Credit, I submit, would improve things for Black as well as White households.

Another proposal is widening the tax brackets for joint tax returns. While this will eliminate the marriage penalty, assuming we

² See *id.* at 293-94, tbls.1.2 & 1.3.

³ See *id.* at 300.

⁴ See *id.*