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Sweden, Singapore, and the States: A Comparative Analysis of the Impact of Taxation on the Welfare of Working Mothers

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**SWEDEN, SINGAPORE, AND THE STATES: A COMPARATIVE
ANALYSIS OF THE IMPACT OF TAXATION ON THE WELFARE OF
WORKING MOTHERS**

NANCY SHURTZ*

INTRODUCTION 1088

I. TAX CULTURE AND POLICY 1093

 A. *Sweden* 1098

 1. Direct Subsidies..... 1100

 2. Vertical Equity 1101

 a. Tax Base..... 1101

 b. Tax Rates..... 1102

 3. Tax Unit 1103

 B. *Singapore*..... 1105

 1. Direct Subsidies..... 1107

 2. Vertical Equity 1107

 a. Tax Base..... 1108

 b. Tax Rates..... 1108

 3. Tax Unit 1109

 C. *United States*..... 1111

 1. Direct Subsidies..... 1114

 2. Vertical Equity 1115

 a. Tax Base..... 1115

 b. Tax Rates..... 1122

 3. Tax Unit 1124

II. LESSONS LEARNED: U.S. AGENDA FOR REFORM..... 1125

 A. *Lessons from Sweden: Direct Subsidies and a Focus on Equity* 1125

 B. *Lessons from Singapore: An Efficient Tax System with
 Comprehensive Base and Care Subsidies*..... 1126

 C. *Additional Macro Proposals* 1127

 1. Tax Base..... 1127

 2. Tax Rates..... 1130

 3. Tax Unit 1130

 D. *Micro Proposals* 1132

CONCLUSION 1132

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INTRODUCTION

Many scholars have studied the topic of tax culture and policy in a variety of countries across the world.¹ Few have compared how different countries' tax policies impact families² or have developed tax criteria that assess the impact of those policies on working mothers.³ I chose to study working

1. *E.g.*, JULIAN ALWORTH ET AL., *THE TAXATION OF INCOME FROM CAPITAL: A COMPARATIVE STUDY OF THE UNITED STATES, THE UNITED KINGDOM, SWEDEN, AND WEST GERMANY* (Mervyn A. King & Don Fullerton eds., 1984); HUGH J. AULT ET AL., *COMPARATIVE INCOME TAXATION: A STRUCTURAL ANALYSIS* (2d ed. 2004); SVEN STEINMO, *TAXATION AND DEMOCRACY: SWEDISH, BRITISH AND AMERICAN APPROACHES TO FINANCING THE MODERN STATE* (1993); VICTOR THURONYI, *COMPARATIVE TAX LAW* (2003); William B. Barker, *Expanding the Study of Comparative Tax Law to Promote Democratic Policy: The Example of the Move to Capital Gains Taxation in Post-Apartheid South Africa*, 109 PENN. ST. L. REV. 703 (2005); Carlo Garbarino, *An Evolutionary Approach to Comparative Taxation: Methods and Agenda for Research*, 57 AM. J. COMP. L. 677 (2009); Tracy A. Kaye, *Tax Discrimination: A Comparative Analysis of U.S. and EU Approaches*, 7 FLA. TAX REV. 47 (2005); Michael A. Livingston, *From Milan to Mumbai, Changing in Tel Aviv: Reflections on Progressive Taxation and "Progressive" Politics in a Globalized but Still Local World*, 54 AM. J. COMP. L. 555 (2006); Jeffrey Owens, *Fundamental Tax Reform: An International Perspective*, 59 NAT'L TAX J. 131 (2006).

2. Several articles have explored the comparative tax treatment of families. See Alessandro Cigno, *Comparative Advantage, Observability, and the Optimal Tax Treatment of Families with Children*, 8 INT'L TAX & PUB. FIN. 455 (2001); Louise Dulude, *Taxation of the Spouses: A Comparison of Canadian, American, British, French and Swedish Law*, 23 OSGOODE HALL L.J. 67 (1985); Ayla A. Lari, *Sharing Alike: French Family Taxation as a Model for Reform*, 37 DUQ. L. REV. 207 (1999); Stephanie Hunter McMahon, *Tax Filing in the U.K.: A Guide for the U.S. When Eliminating the Marriage Penalty*, 55 ST. LOUIS U. L.J. 159 (2010); Joel S. Newman, *Taxation of Households: A Comparative Study*, 55 ST. LOUIS U. L.J. 129 (2010).

There are quite a few articles comparing family law aspects of concern to working mothers. See Richard N. Block, *Work-Family Legislation in the United States, Canada, and Western Europe: A Quantitative Comparison*, 34 PEPP. L. REV. 333 (2007); Nancy E. Dowd, *Envisioning Work and Family: A Critical Perspective on International Models*, 26 HARV. J. ON LEGIS. 311 (1989); Saul Levmore, *Parental Leave and America Exceptionalism*, 58 CASE W. RES. L. REV. 203 (2007); Linda A. White, *The United States in Comparative Perspective: Maternity and Parental Leave and Child Care Benefits Trends in Liberal Welfare States*, 21 YALE J.L. & FEMINISM 185 (2009); Anthea Williams, *Public Law Models for the Implementation of Paid Parental Leave*, 19 N.Z. U. L. REV. 377 (2001); Michele Ashamalla, Note, *A Swedish Lesson in Parental Leave Policy*, 10 B.U. INT'L L.J. 241 (1992); Anne Lofaso, Comment, *Pregnancy and Parental Care Policies in the United States and the European Community: What Do They Tell Us About Underlying Societal Values?*, 12 COMP. LAB. L.J. 458 (1991).

3. Janet G. Stotsky, *Gender Bias in Tax Systems*, 14 TAX NOTES INT'L 1913, 1913 (1997). See generally Grace Blumberg, *Sexism in the Code: A Comparative Study of Income Taxation of Working Wives and Mothers*, 21 BUFF. L. REV. 49 (1971); Dulude, *supra* note 2, at 70; Edward McCaffery, *Where's the Sex in Fiscal Sociology? Taxation and Gender in Comparative Perspective 6-8* (USC Center in Law, Economics and Organization, Research Paper No. CO7-12, 2008), available at http://papers.ssrn.com/sol3papers.cfm?abstract_id=1020360.

mothers⁴ because mothers are “derivatively” dependent,⁵ that is to say, children depend on their mothers for care, and when mothers must work, they are caught in a “double bind.”⁶ On the one hand, mothers physically bear the child and assume the primary responsibility for care giving.⁷ On the other hand, they must earn the money⁸ to buy the food, shelter, health, and other necessities for themselves and their children.⁹ In addition, I chose mothers

4. Gender neutrality seems to be the “preferred norm,” but it may “reinforce a false sense of objectivity” and “raise the risk of essentialism.” Nancy E. Dowd, *Women’s, Men’s and Children’s Equalities: Some Reflections and Uncertainties*, 6 S. CAL. REV. L. & WOMEN’S STUD. 587, 588 (1997). I chose to study mothers rather than parents or families; however, I do not want to leave children out of my discussion either. I found that many studies on families do not address some of the most important issues to women, such as domestic violence.

5. MARTHA ALBERTSON FINEMAN, *THE NEUTERED MOTHER, THE SEXUAL FAMILY AND OTHER TWENTIETH CENTURY TRAGEDIES* 39–41 (1995).

6. Margaret Jane Radin, *The Pragmatist and the Feminist*, 63 S. CAL. L. REV. 1699, 1704 (1990).

7. Mothers still have the primary responsibility for child care and housework in the home. “[E]mployed fathers in most OECD countries devote fewer than one-quarter of the hours that their female partners commit to routine housework.” Janet C. Gormick & Marcia K. Meyers, *Creating Gender Egalitarian Societies: An Agenda for Reform*, 36 POL. & SOC’Y 313, 317 (2008). Time-use studies in the United States indicate that “employed mothers do less of everything else; they spend seven fewer hours per week on housework, six fewer hours sleeping, five fewer hours on personal care, and twelve fewer hours on leisure activities than their nonemployed counterparts.” *Id.* at 318. “Men have failed to make a corresponding shift in the amount of time and attention that they devote to caregiving.” *Id.* at 317.

8. The majority of children now grow up in single-parent or two-parent families where both adults work. *See* Gormick & Meyers, *supra* note 7, at 316 (indicating that across thirty OECD countries, 71% of mothers with one child and 62% of mothers with two or more children work; in the United States almost 70% of mothers work; and in Sweden over 80% of mothers work). In the United States approximately 30% of children grow up in single family households; 23% of children grow up in a single family household headed by the mother. *See* Marian Wright Edelman, *A National Family Portrait*, HUFFINGTON POST (July 29, 2011), http://www.huffingtonpost.com/marian-wright-edelman/a-national-family-portrai_b_913729.html.

However, mothers are employed fewer hours than fathers and are paid less. Due to leaves, career breaks, job choices, and employer discrimination, mothers bear a “mommy tax.” Mothers share of parental earnings in a dual-parent household is about 28% in the United States and in the high thirtieth percentile in Sweden. Gormick & Meyers, *supra* note 7, at 318. Single mothers’ earnings are among the lowest. *See* TIMOTHY S. GRALL, U.S. CENSUS BUREAU, *CURRENT POPULATION REPORTS: CUSTODIAL MOTHERS AND FATHERS AND THEIR CHILD SUPPORT: 2007*, at 10 (2009). Around 31% of all single parents receive public assistance and 4% receive Temporary Assistance for Needy Families. *Id.* at 1.

9. Lower-income families spend about 23% of their incomes on child care. Mary L. Heen, *Welfare Reform, Child Care Costs, and Taxes: Delivering Increased Work-Related Child Care Benefits to Low-Income Families*, 13 YALE L. & POL’Y REV. 173, 195 n.142 (1995). Family expenses in the United States vary based on geography. A single parent with two children needs to earn \$15 an hour to afford basic necessities in a rural area of New Mexico, \$20 an hour in Des Moines, and \$27 an hour in San Francisco. KINSEY ALDEN DINAN, NAT’L CTR. FOR CHILDREN IN POVERTY, *BUDGETING FOR BASIC NEEDS: A STRUGGLE FOR WORKING FAMILIES* 3 (2009);

because of their important connection to children—valuable public goods and the human capital of the future.¹⁰

This paper is the beginning of an exploration of the multitude of tax factors that impact the welfare of working mothers. I select three countries which I think exemplify three different and distinct approaches to working mothers' welfare—Sweden, which adopts a “state-support” system;¹¹ Singapore, which adopts a “class/caste” approach;¹² and the United States, which largely adheres to a “personal responsibility” model.¹³ I chose these three countries because of their differing approaches to working mothers' welfare, as well as their distinct political, cultural, legal, and tax differences. I will consider each country's “tax culture,” and the effect of the country's tax and spending policies on working mothers' welfare.

I chose Sweden because of all the socialist countries it has the most favorable and transformative family leave policy.¹⁴ Sweden also has a large

see also GARY ORFIELD, UCLA CIVIL RIGHTS PROJECT, *THE FUTURE DEPENDS UPON SINGLE MOMS: A POLICY ANALYSIS INCLUDING DATA FROM THE TOP TEN METROPOLITAN AREAS* 7 (2009).

10. Raising healthy children should be a national priority. See, e.g., Paula England & Nancy Folbre, *Who Should Pay for the Kids?*, 563 ANNALS AM. ACAD. POL. & SOC. SCI. 194 (1999) (arguing that well-reared children are public goods because of their capacity to benefit society as a whole); Nancy Folbre, *Children as Public Goods*, 84 AM. ECON. REV. 86 (1994). One very important economic benefit of children is that their income from their wages will help provide retirement benefits for the elderly.

11. Sweden sees its role as reducing economic inequity, gender inequity and providing support of children who they see as a public good or valuable social citizens. See Gregg M. Olsen, *Toward Global Welfare State Convergence?: Family Policy and Health Care in Sweden, Canada and the United States*, J. SOC. & SOC. WELFARE, June 2007, at 143, 145 (asserting that Sweden's welfare state “covers a wider range of social contingencies than most nations and provides generous social transfers and a dense network of high quality social services”).

12. Singapore supports working moms through a massive “guest worker” program which essentially provides many households with a maid or nanny. These guest workers have low wages, few rights and support from the state. See Brenda S.A. Yeoh & Kavitha Annadurai, *Civil Society Action and the Creation of “Transformative” Spaces for Migrant Domestic Workers in Singapore*, 37 WOMEN'S STUD. 548, 549 (2008). See also Brenda S.A. Yeoh et al., *Migrant Female Domestic Workers: Debating the Economic, Social and Political Impacts in Singapore*, 33 INT'L MIGRATION REV. 114, 117 (1999); Brenda S.A. Yeoh & Shirlena Huang, *Singapore Women and Foreign Domestic Workers: Negotiating Domestic Work and Motherhood*, in GENDER, MIGRATION AND DOMESTIC SERVICE 277, 279 (Janet Henshall Momsen ed., 1999).

13. Working mothers in America are responsible for child care, pre-school, college expenses as well as work-related expenses, such as commuting, work clothes, and meals. Olsen, *supra* note 11, at 145 (stating “[t]he restricted nature of the U.S. welfare state reflects a commitment to a narrow conception of equal opportunity, a negative expression of liberty—freedom from the state—and limited government, helping to explain its higher levels of poverty and smaller middle class”).

14. See Katrin Bennhold, *In Sweden, Men Can Have It All*, N.Y. TIMES, June 9, 2010, available at www.nytimes.com/2010/06/10/world/europe/10iht-sweden.html.

number of women in powerful governmental positions¹⁵ and was ranked number one on the Gender Gap Index in the year I started researching this paper.¹⁶ Sweden has a family-friendly tax system with high progressive rates, a comprehensive base, and an individual unit.¹⁷ It also has a large number of direct, rather than tax, subsidies.¹⁸

I chose Singapore because it has one of the lowest fertility rates of any country in the world,¹⁹ yet one of every seven households has a maid or nanny.²⁰ Singapore also seems economically comparable to the United States, with one of the highest standards of living in Asia.²¹ Singapore's taxes are low, fair, and simple with a mandated savings system, much like our own Social Security system.²²

Part I of my Essay explores the "tax culture" of each of the three countries. I define "tax culture" as the values and beliefs embodied in the various taxing systems and provisions of the country. Although all tax cultures have as their purposes supplying adequate revenue, achieving a practical system, and accomplishing political order; they vary in their goals of horizontal equity, reducing economic equality, encouraging market work, and providing specific support for working mothers and their children. In this Essay I try to prioritize

15. Women hold nearly half of the parliamentary, ministerial, and municipal positions. *See Gender Equality in Sweden*, SWEDEN.SE: THE OFFICIAL GATEWAY TO SWEDEN, <http://www.sweden.se/eng/home/society/equality/facts/gender-equality-in-Sweden/> (last visited Sept. 19, 2010).

16. Sweden is now number four after Iceland, Finland, and Norway. RICARDO HAUSMANN ET AL., WORLD ECON. FORUM, THE GLOBAL GENDER GAP REPORT: 2009, at 8 (2009), available at <http://www.weforum.org/en/Communities/Women%20Leaders%20and%20Gender%20Parity/GenderGapNetwork/index.htm>. See Table 3a for comparisons. *Id.* at 8–9. The report covers 134 countries and over 90% of the world's population. *Id.* at 7. The four major categories examined were: 1) economic participation and opportunity; 2) educational attainment; 3) political empowerment; and 4) health and survival. *Id.* at 4. The United States ranked thirty-first overall, and Singapore ranked eighty-fourth. *Id.* at 8, 9.

17. *See infra* Part I.A.2–3.

18. *See infra* Part I.A.1.

19. Singapore has 1.1 births per woman. *The World Factbook, Singapore*, CENT. INTELLIGENCE AGENCY, <https://www.cia.gov/library/publications/the-world-factbook/geos/sn.html> (follow "People" hyperlink; then follow "Total Fertility Rate" hyperlink) (last visited Oct. 13, 2010) [hereinafter CIA WORLD FACTBOOK]. This is despite state and tax policies that encourage children. For example, the Parenthood Tax rebate encourages citizens of Singapore to have children and the rebate increase from \$5,000 for the first born after 2009 to \$20,000 for the third and beyond born after 2009. *Parenthood Tax Rebate*, INLAND REVENUE AUTH. SING., <http://www.iras.gov.sg/irasHome/page04.aspx?id=1528> (last visited Sept. 30, 2010).

20. Yeoh & Annadurai, *supra* note 12, at 549. The statistics vary; some say one-in-eight and some say one-in-seven households. *Id.*

21. *See Cost of Living*, SING. EDUC., http://www.singaporeedu.gov.sg/htm/liv/liv_01.htm (last visited Jan. 11, 2011).

22. Rowan Callick, *The Singapore Model*, THE AMERICAN (May 27, 2008), <http://www.american.com/archive/2008/may-june-magazine-contents/the-singapore-model>.

the tax features most important to working mothers' welfare. Spending policies, as well as macro tax concepts, such as the tax base, progressive taxation, and the taxable unit are considered. Specific tax policies, such as those involving children and childcare, housing, earned income, retirement, and education may also be relevant.

Part II of this Essay discusses lessons learned from Sweden and Singapore, and explores proposals to optimize the tax system in the United States so that it can be more supportive of working mothers. First, because working mothers spend a disproportionate part of their income on consumption and often do not adequately save, I make several suggestions as to the tax base, including: 1) moving away from the current hybrid income tax system with fewer subsidies for savings; 2) providing more subsidies for the consumption items important to working moms; 3) limiting the subsidies for the consumption items of the wealthy; and 4) taxing capital gains and dividends the same as earned income. Second, because working mothers earn less in the marketplace, I also suggest ways to make our tax system more progressive: 1) by increasing the federal income tax rates; 2) by making the Social Security system less regressive; and 3) by providing a refundable credit for "regressive state tax regimes"—those using flat-rate consumption taxes that heavily tax household and child/work related items. Third, to eliminate adverse marriage penalties and incentives to stay at home, I advocate changing our marital taxing unit and requiring the imposition of mandatory individual filing. In the alternative, I recommend allowing married couples who file separately to file as singles, and head of households to be taxed as married. I also propose the doubling of the eligibility rules and phase-outs for head of household working moms. Fourth, because working moms often spend considerable time doing both market work and housework, transferring some of these functions to the state (or to their partners or other family members) would be greatly beneficial to their welfare. Although providing universal health care is a good first step, I suggest we provide more direct subsidies that would be of importance to working moms, such as universal preschool.

To the extent the United States is more likely to adopt tax subsidies, rather than direct subsidies, I propose the following specific tax provisions: 1) a family allowance for all lower and middle income head of household working moms to address the negative income resulting from child care responsibilities; 2) an across-the-board "support" credit for moms in two-earner households or head of household working moms—those who have to incur increased transportation, meals, and clothing expenses for work; 3) a "welfare mom's working opportunity credit" for those hiring welfare moms (with accompanying children) as nannies; and 4) institution of a refundable "rent" credit to subsidize rent expenses for low income head of household moms. Of course, tax culture is just one part of the larger legal and social environment of which working mothers are a part. However, tax policy can be instrumental in

addressing certain equity issues and in providing support to those who sacrifice for the common good.²³

I. TAX CULTURE AND POLICY

What is tax culture? Tax culture has been defined as “the body of beliefs and practices that are shared by tax practitioners and policy-makers in a given society and thus provide the background or context in which substantive tax decisions are made.”²⁴ Tax culture has generally been assessed according to a variety of traditional tax policy criteria: supplying adequate revenue, achieving a practical system, imposing equal taxes, reducing economic inequality, and accomplishing political order.²⁵ The tax culture should be assessed by examining all the taxing systems—federal, state, and local—of a country, as well as examining specific micro criteria.²⁶

When assessing the impact of a country’s tax culture on working mothers, it is important to reframe these traditional tax policy criteria based on the economic and social circumstances that generally apply to working mothers.²⁷ First, working mothers tend to earn less than men,²⁸ but a large portion of their income is comprised of earnings, as opposed to savings.²⁹ Second, women

23. In this Essay, I presume that children are a public good, an investment in human capital, not pure consumption. See Charles R. O’Kelley, Jr., *The Parenting Tax Penalty: A Framework for Income Tax Reform*, 64 OR. L. REV. 375, 379 (1986).

24. Livingston, *supra* note 1, at 560.

25. Joseph T. Sneed, *The Criteria of Federal Income Tax Policy*, 17 STAN. L. REV. 567, 568 (1965); see also Robert P. Strauss, *Administrative and Revenue Implications of Alternative Federal Consumption Taxes for the State and Local Sector*, 14 AM. J. TAX POL’Y 361, 363 (1997).

26. Sneed, *supra* note 25, at 569. Sometimes charges or excise taxes (and where the funds go from the excise taxes) can be important. For example, Singapore imposes a monthly charge or “tax” on the household employer of a foreign nanny or maid. Yeoh et al., *supra* note 12, at 117. These funds do not go back to the payers or benefit the worker.

27. For an example of how to reframe these criteria, see Nancy E. Shurtz, *A Critical View of Traditional Tax Policy Theory: A Pragmatic Alternative*, 31 VILL. L. REV. 1665, 1668 (1986) (providing an example of how to reframe these criteria). For an economic perspective, see Faye L. Woodman, *Women and Children in the Economy: Reflections from the Income Tax System*, 47 U. N.B. L. J. 311, 314 (1998) (discussing the Canadian tax system and the problematic trends toward a hybrid system, towards flattening tax rates, and the emphasis on efficiency over equity).

28. Deborah J. Anderson et al., *The Motherhood Wage Penalty Revisited: Experience, Heterogeneity, Work Effort, and Work-Schedule Flexibility*, 56 INDUS. & LAB. REL. REV. 273, 273 (2003).

29. U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-08-105, RETIREMENT SECURITY: WOMEN FACE CHALLENGES IN ENSURING FINANCIAL SECURITY IN RETIREMENT (2007). See also Anderson et al., *supra* note 28, at 273. Studies have shown that women with children incur a “mommy tax” or penalty in the market. Michelle J. Budig & Paula England, *The Wage Penalty for Motherhood*, 66 AM. SOC. REV. 204, 204 (2001); Martha S. Hill, *The Wage Effects of Marital Status and Children*, 14 J. HUM. RESOURCES 579, 590 (1979).

save less and spend more than the average man.³⁰ They generally have less wealth and retirement assets.³¹ Third, when the taxable unit is the married couple and the rates are progressive, working mothers are encouraged to stay at home.³² Fourth, working mothers tend to spend more time on household chores and child care than other taxpayers, often with little leisure.³³ Lastly, working mothers tend to derive greater benefits from government services that are financed with tax dollars.³⁴

Tax subsidies in the form of deductions are more favorable to high income earners.³⁵ Low income earners, such as single moms, often take the standard deduction³⁶ or, if they are not taxpayers, do not receive any benefit from tax deductions or nonrefundable credits.³⁷ Refundable credits, such as the earned income credit, can function the same as direct subsidies³⁸ and are better than nonrefundable credits for low income working mothers. However, direct subsidies are best because they can be specifically targeted, adequate, and

30. MIMI ABRAMOVITZ & SANDRA MORGEN, TAXES ARE A WOMAN'S ISSUE: REFRAMING THE DEBATE 19 (2006).

31. See Hannah L. Meils, Note, *A Lesson from NAFTA: Can the FTAA Function as a Tool for Improvement in the Lives of Working Women?*, 78 IND. L.J. 877, 877 (2003). Working women contribute 66% of the hours worked each day, but earn only 10% of the world income. *Id.* See also Richard W. Johnson & Melissa M. Favreault, *Economic Status in Later Life among Women Who Raised Children Outside of Marriage*, 59B J. GERONTOLOGY 315, 315 (2004), available at <http://psychogerontology.oxfordjournals.org/content/59/6/S315.abstract>.

32. See EDWARD J. MCCAFFERY, TAXING WOMEN 3 (1997).

33. See Nancy C. Staudt, *Taxing Housework*, 84 GEO. L.J. 1571, 1579 (1996). Time use studies in the United States show that employed mothers spend "seven fewer hours per week on housework, six fewer hours sleeping, five fewer hours on personal care, and twelve fewer hours on leisure activities." Gornick & Meyers, *supra* note 7, at 318.

34. See ABRAMOVITZ & MORGEN, *supra* note 30, at 19.

35. For a nonfeminist argument that direct subsidies are best, see Stanley S. Surrey, *Tax Incentives as a Device for Implementing Government Policy: A Comparison with Direct Government Expenditures*, 83 HARV. L. REV. 705, 721 (1970). Surrey points out that "Tax incentives are inequitable: They are worth more to the high income taxpayer, than the low income taxpayer; They do not benefit those who are outside the tax system because their incomes are low, they have losses, or they are exempt from tax." *Id.* at 720 (caps and italics eliminated from quote).

36. See GERALD PRANTE, TAX FOUND., FISCAL FACT NO. 95: MOST AMERICANS DON'T ITEMIZE ON THEIR TAX RETURNS (2007), available at <http://www.taxfoundation.org/publications/show/22499.html>.

37. Katherine D. Black et al., *The Bias Against Single Parents in the Internal Revenue Code*, 126 TAX NOTES 1397, 1397 (2010). The article points out that "13.6 million single parents" are "rearing 21.2 million children," representing "26 percent of the 81.6 million children living in families" in America. *Id.*

38. See Heen, *supra* note 9, at 175.

timely delivered.³⁹ Thus, replacing tax benefits with direct subsidies would be the single most important tax policy priority for working moms.

When the government takes over responsibility for child care, elder care, education, or other responsibilities of the working mom, the working mother's welfare is greatly enhanced. Not only will her leisure increase, but her costs for children will be reduced.⁴⁰ It may be equally important for the system to encourage her partner or family to be more supportive or grant allowances that help pay more of her expenses, such as health and housing. A direct subsidy in the form of a family allowance is used by most industrialized countries,⁴¹ and makes sense as a tax policy matter.⁴²

An efficient governmental system with small debt or even surpluses can be important to working moms, particularly in recessions.⁴³ In difficult times, studies have shown that spending cuts can actually adversely impact services—such as health, education, and child care.⁴⁴ On the state level, fewer school days means mothers bear the burden of child care.⁴⁵ On the federal level, Social Security benefit reductions have more of an impact on women than men.⁴⁶ At both levels, cuts in government employment can impact women more because they have higher employment in the public sphere.⁴⁷ On the state level, balanced budget requirements often require the imposition of

39. *Id.* at 201. Heen points out that tax systems can provide “relative privacy, reduced bureaucracy, and lack of stigma” but that the workability of refundable credits has the disadvantages of “difficulty of implementing an advance payment mechanism for a population that cannot easily wait until tax refund time” to get the benefit. *Id.* at 200–01. See also Jonathan Barry Forman, *Poverty: Greening the Tax and Transfer System to Create More Opportunities*, in *AGENDA FOR A SUSTAINABLE AMERICA* 187, 193 (John C. Dermbach ed., 2009) (stating that “[t]ransfer programs reduce household income inequality much more than taxes” and citing the Gini index reduction of 17% versus 4.6% with transfer programs).

40. O’Kelley, *supra* note 23, at 379.

41. Olsen, *supra* note 11, at 147.

42. See Anne L. Alstott, *Tax Policy and Feminism: Competing Goals and Institutional Choices*, 96 COLUM. L. REV. 2001, 2005 (1996).

43. ABRAMOVITZ & MORGEN, *supra* note 30, at 19.

44. See *id.* at 81; NICHOLAS JOHNSON ET AL., *CTR. BUDGET & POL’Y PRIORITIES, AN UPDATE ON STATE BUDGET CUTS: AT LEAST 46 STATES HAVE IMPOSED CUTS THAT HURT VULNERABLE RESIDENTS AND CAUSE JOB LOSS 1* (2011); ELAINE MAAG, *URBAN INST., ANALYZING RECENT STATE TAX POLICY CHOICES AFFECTING LOW-INCOME WORKING FAMILIES: THE RECESSION AND BEYOND 1* (Perspectives on Low-Income Working Families Ser. No. 3, 2006).

45. ABRAMOVITZ & MORGEN, *supra* note 30, at 79.

46. Catherine Rampell, *Measuring Dependence on Social Security*, *ECONOMIX*, N.Y. TIMES (June 7, 2010, 5:37 PM), available at <http://economix.blogs.nytimes.com/2010/06/07/measuring-dependence-on-social-security>.

47. ABRAMOVITZ & MORGEN, *supra* note 30, at 28. Women in the United States outnumber men 18% to 13% in public sector jobs. *Id.* In Sweden, women also make up a large percentage of public employment. Bennhold, *supra* note 14.

higher taxes, often regressive taxes like sales taxes. Tax increases can also occur at the federal level, as well as increased federal debt, which can mortgage our children's future.⁴⁸

Revenue for these direct subsidies must be raised and a tax system that focuses on vertical equity rather than economic efficiency will serve most working mother's interests best.⁴⁹ In the "land of autonomous, self-actualizing and wealth-maximizing market participants,"⁵⁰ working mothers' concerns are not taken into account. The mother's responsibility for looking after her children altruistically does not fit into this model.⁵¹ Consequently, a tax system that taxes people according to their ability to pay with fair rates and a comprehensive, yet fair, base is the second most important tax system feature after providing direct subsidies.⁵² Progressive taxes are best because they not only leave the lower income taxpayer with greater disposable income, but help assure that taxes on the wealthy will finance needed social services.⁵³ Working mothers' (and particularly single mothers')⁵⁴ greater family responsibilities make them less competitive in the marketplace, resulting in lower wages and wealth. A flat tax system with a comprehensive base would also work, if liberal exemptions are provided for family responsibilities and direct social subsidies are financed.⁵⁵

The tax base is probably more important than the tax rates to working mothers. Since women, particularly single women, rely on their earnings more than men,⁵⁶ any double taxation of wages, such as the federal income tax, the payroll tax, and the state and local income and wage taxes will be detrimental to her welfare.⁵⁷ In addition, any favorable treatment of savings will not inure to her benefit, since working mothers tend to consume more (due to work and child-related expenses), spending a greater percentage of their income.⁵⁸ Provisions in the income tax system that favor savings, such as those for health, education, and retirement, should be modified or eliminated.⁵⁹

48. ABRAMOVITZ & MORGEN, *supra* note 30, at 105–06.

49. *Id.* at 126; *see also* Meils, *supra* note 31, at 878 (criticizing international agreements for not including provisions to protect the specific problems faced by working women).

50. Woodman, *supra* note 27, at 312.

51. *Id.*

52. ABRAMOVITZ & MORGEN, *supra* note 30, at 130.

53. *Id.* at 37, 125.

54. *See* Black et al., *supra* note 37, at 1397.

55. This is the Singapore model.

56. ABRAMOVITZ & MORGEN, *supra* note 30, at 19.

57. *See id.* at 86–87.

58. *See id.* at 61.

59. *See id.* at 57.

Similarly, a broad-based income system that taxes capital gains and dividends the same as earned income would be the best tax base.⁶⁰

Subsidies for consumption that favor the wealthy, such as deductions for vacation home mortgage interest, should be modified or eliminated.⁶¹ Conversely, job-related and child care expenses to produce earnings should be subsidized.⁶² Lastly, taxes on consumption, such as sales and value added taxes (VAT), should exempt basic necessities as well as those purchases, such as prepared meals, that are more likely to be the expenditures of working mothers.⁶³

The taxable unit is another important feature of the taxing system for working mothers.⁶⁴ Family living arrangements affect economic well-being and are important in determining a taxpayer's ability to pay. Any tax system that encourages women to be full-time homemakers or promotes the gendered division of housework and child care is detrimental to working mothers' best interests.⁶⁵ Giving up market work may also be detrimental when divorce or separation rates are high,⁶⁶ and joint filing may result in tax liability for the innocent spouse.⁶⁷ Individual taxation eliminates the high marginal tax rates experienced by secondary earners in a progressive tax system.⁶⁸ Individual taxation eliminates the discrimination in the eligibility rules and phase-outs when marital status is a factor. Under an individual unit system, income from property should be apportioned according to ownership.⁶⁹ Child subsidies could be apportioned according to who cares for or provides financial support for the children.⁷⁰

60. *See id.* at 56–57.

61. *See* ABRAMOVITZ & MORGEN, *supra* note 30, at 55.

62. *Id.* at 57. Or a credit could be provided. All earners have extra expenses for transportation, clothes, and meals. Parents have extra child care expenses.

63. *Id.* at 138–39.

64. Dulude, *supra* note 2, at 21, 60. At one time this factor was more important than the tax base. Now, with most mothers working, the base seems to be more important.

65. *See* MCCAFFERY, *supra* note 32, at 138 (“The push toward single-earner families among the Uppers makes Traditional families prominent among the rich and powerful and deprives women of important positions at the top of the social hierarchy.”). *See also* Laura Ann Davis, Note, *A Feminist Justification for the Adoption of an Individual Filing System*, 62 S. CAL. L. REV. 197, 198 (1988).

66. MCCAFFERY, *supra* note 32, at 2–3; *see generally* Stephen A. Zorn, *Innocent Spouses, Reasonable Women and Divorce: The Gap between Reality and the Internal Revenue Code*, 3 MICH. J. GENDER & L. 421 (1996).

67. Gary L. Maydew, *When is an Innocent Spouse Really Innocent?*, TAXES: THE TAX MAG., Jan. 1995, at 39.

68. Davis, *supra* note 65, at 218.

69. *Id.* at 198.

70. *See generally* Nancy E. Shurtz, *Gender Equality and Tax Policy: The Theory of “Taxing Men”*, 6 S. CAL. REV. L. & WOMEN’S STUD. 485 (1997).

Lastly, in circumstances where there are inadequate direct subsidies, hybrid or consumption taxable bases, or the wrong taxing unit, specific tax rules that address women's concerns also become significant.⁷¹ How the tax code addresses child care, elder care, housework, divorce, retirement, and inheritance are all important. For example, how the tax system treats children—as investments, consumption, or public goods—is a relevant tax policy concern to working mothers.⁷² If child care and child rearing are considered socially valuable activities, and children are treated as valuable investments in human capital, then working mothers will not bear the major responsibility for producing these valuable social goods.⁷³ On the other hand, when children are considered consumption, then their expenses are considered the personal responsibility of the parent.⁷⁴ When there is a failure on the personal level to provide adequately for the children, the society may suffer the consequences.⁷⁵ Similarly, a tax system that subsidizes other care functions, like those for the elderly or handicapped, can also provide more horizontal equity among taxpayers as well as benefits to the state and society.⁷⁶

This section begins by analyzing each country's tax culture and policies and identifying the criteria most valued by each system. It then goes on to examine the tax features important for the welfare of working mothers. These are divided into the following major categories: adequate revenue for direct subsidies supporting women, vertical equity (including the tax base and tax rates), and the tax unit.

A. Sweden

The tax culture of Sweden focuses primarily on equity,⁷⁷ both horizontal and vertical.⁷⁸ Horizontal redistribution is characterized as being accomplished

71. ABRAMOVITZ & MORGEN, *supra* note 30, at 51–54.

72. England & Folbre, *supra* note 10, at 196; *see* Folbre, *supra* note 10, at 86.

73. *See* Heen, *supra* note 9, at n.207.

74. Folbre, *supra* note 10, at 87.

75. Lynn A. Stout, *Some Thoughts on Poverty and Failure in the Market for Children's Human Capital*, 81 GEO. L.J. 1945, 1945 (1993).

76. *See* Folbre, *supra* note 10, at 87.

77. Olsen, *supra* note 11, at 145.

78. Joakim Palme, *Income Distribution in Sweden*, 5 JAPANESE J. SOC. SECURITY POL'Y 16, 16 (2006), available at <http://ipss.go.jp/webj-ad/WEBJournal.files/SocialSecurity/2006/jun/palme.pdf>. *See also* SVEN R. LARSON, CTR. FOR FREEDOM & PROSPERITY, THE SWEDISH TAX SYSTEM: KEY FEATURES AND LESSONS FOR POLICY MAKERS 4 (2006), available at <http://www.freedomandprosperity.org/Papers/sweden/sweden.shtml>. The purpose of tax rates and regulations in Sweden are to raise a given amount of revenue for the public sector, which essentially redistributes the wealth. The difficulty in this systematic approach is that when “tax rates are too high, the tax system distorts economic activity and hampers growth. As a result, economic activity diminishes and the tax base shrinks. The tax system erodes its own macroeconomic foundation.” *Id.*

periodically over one's life cycle through benefits, pensions, allowances, and insurance.⁷⁹ Vertical redistribution from the rich to the poor is accomplished not only through welfare programs but also through progressive taxation.⁸⁰ The Swedish tax system as a whole is more progressive than the tax system of the United States or Singapore.⁸¹ Taxes in Sweden account for 47% of gross domestic product (GDP), compared with 27% in the United States.⁸²

The welfare state in Sweden is significant.⁸³ "The public sector . . . employs one in three workers, including half of all working women."⁸⁴ "Family benefits cost 3.3% of GDP, the highest in the world along with Denmark and France."⁸⁵ A large percentage of the budget is allocated to social welfare programs and, in contrast to the United States, a small percentage of the overall budget is used to finance national defense.⁸⁶

Overall, Sweden has been successful in reducing poverty and inequality and providing broad subsidies to working moms.⁸⁷ Compared internationally, poverty rates in Sweden continue to be among the lowest.⁸⁸ In addition to progressive taxation and widespread welfare benefits, another factor contributing to the low degree of inequality in Sweden is the relatively even distribution of earnings. The Gini coefficient for 2005 was .230.⁸⁹ According to this measurement, which ranges between zero and one, the closer the value is to zero, the more equal the distribution of wealth.⁹⁰

79. Palme, *supra* note 78, at 16.

80. *Id.* at 16, 17.

81. Mohammad Tsani Anafari, *Improving Tax-to-GDP Ratio: A Lesson From Sweden*, JAKARTA POST, Aug. 23, 2010, at 7. A country's tax system is often defined as progressive if the policies imposed are such that the wealthier taxpayer pays more tax in proportion to the taxpayer's earned income. See generally Tommy Ferrarini & Kenneth Nelson, *Estimating Post-Tax Social Insurance Benefits: Validity Problems in Comparative Analyses of Net Income Components from Household Income Data* 10 (Swed. Inst. for Soc. Research, Working Paper 6/2002), available at <http://people.su.se/~kennethn/Estimating%20Post-tax%20social%20insurance%20benefit.pdf>. In contrast, a system will be defined as proportional, if tax liability is equally distributed in relation to each taxpayer's income.

82. Bennhold, *supra* note 14.

83. Olsen, *supra* note 11, at 145.

84. Bennhold, *supra* note 14.

85. *Id.*

86. MINISTRY OF FIN. SWED., THE SWEDISH ECONOMY IN FIGURES 7 (2010), available at <http://www.sweden.gov.se/sb/d/574/a/128092>.

87. Palme, *supra* note 78, at 16.

88. *Id.* at 21.

89. Anafari, *supra* note 81 ("The Gini coefficient is a measure of inequality of distribution. It is generally used as a measure of imbalance of income or wealth.")

90. *Id.* The United States Gini coefficient is 0.45 as of 2007. *Country Comparison: Distribution of Family Income—Gini Index*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2172rank.html> (last visited Sept. 30, 2010).

As for practicality, the Swedish tax system is relatively complex and sophisticated.⁹¹ Sweden has taxes on income, capital, and consumption at both the federal and local levels.⁹² Unlike the United States, the focus of the Swedish taxation system is not on generating economic growth.⁹³ Yet, “public deficit and debt levels are a fraction of those in most developed economies these days, testimony perhaps to fiscal management born of a banking crisis and recession in the 1990s.”⁹⁴

The politic of Sweden is one that fosters the welfare state system.⁹⁵ Overall, Swedes seem to accept and support their government’s power to tax and redistribute revenue.⁹⁶ Although Swedes pay a very high level of taxes, they do not appear to have a problem with either tax evasion or tax avoidance, mainly because as one Swedish journalist put it, “most feel they are getting a good return for their money.”⁹⁷ With liberal family allowance, full-time preschool guaranteed at a minimal fee, and quality elder care, “people feel they are getting their money’s worth.”⁹⁸

1. Direct Subsidies

With respect to one of the criteria most important to women—adequate revenue for programs supporting women—Sweden scores high.⁹⁹ Sweden generates more than adequate revenue from its tax system to finance its social welfare system.¹⁰⁰ The revenue raised through the progressive tax system is pumped into the public sectors through direct subsidies to support the various programs of the welfare state.¹⁰¹ By far the largest budgetary amount goes to “social protection,” which includes child care, housing, and retirement subsidies.¹⁰² This makes up nearly half of public expenditures.¹⁰³ Subsidies for education and health care are secondary in importance and together

91. LARSON, *supra* note 78, at 13.

92. *Id.* at 4.

93. *Id.* at 14.

94. Bennhold, *supra* note 14.

95. Olsen, *supra* note 11, at 159–60.

96. Paul Mulshine, *Sweden Has Socialism but NJ Has Meatballs*, NJ.COM BLOG (Apr. 24, 2008, 7:51 AM), http://blog.nj.com/njv_paul_mulshine/2008/04/sweden_has_socialism_but_nj_ha.html.

97. *Id.*

98. Bennhold, *supra* note 14.

99. Olsen, *supra* note 11, at 145.

100. *Id.* at 147.

101. Palme, *supra* note 78, at 16.

102. REGERINGSKANSLIET: GOV’T OFFICES OF SWED., FACTS & FIGURES: SWEDISH GOVERNMENT OFFICES YEARBOOK 2010, at 18 (2011), *available at* <http://www.sweden.gov.se/content/1/c6/17/17/06/39c20e86.pdf>.

103. *Id.*

comprise over 25% of the budget.¹⁰⁴ A very small percentage of their budget goes to defense.¹⁰⁵ Sweden, like Singapore,¹⁰⁶ has recently had surpluses in their budget.¹⁰⁷

2. Vertical Equity

The Swedish Tax system as a whole has a very strong vertical equity component. The rates are high and thus the people pay according to their abilities. However, the tax base could be improved to be more beneficial to working mothers.

a. Tax Base

Sweden perhaps falls short of a perfect taxing system for working mothers in the composition of its tax base. Most of Sweden's revenue is collected through labor taxes and consumption taxes, rather than through taxes on property and capital.¹⁰⁸ The country's three major revenue generating groups are labor taxes, goods and services taxes, and taxes on capital and business.¹⁰⁹ Direct taxes on labor are paid by income earners and include local and state taxes, as well as basic pension or social security contributions.¹¹⁰ Individual income is taxed mainly by municipality of residence¹¹¹ but may also be subject to the national income tax if the income level exceeds the proscribed limit.¹¹²

In 2007 almost 60% of the tax revenue came from labor taxes, which also includes indirect taxes such as those employers pay for social insurance.¹¹³

104. *Id.*

105. MINISTRY OF FIN. SWED., *supra* note 86, at 7.

106. *See* SING. GOV'T, BUDGET HIGHLIGHTS FINANCIAL YEAR 2008: CREATING A TOP QUALITY ECONOMY; BUILDING A RESILIENT COMMUNITY 4 (2008), *available at* http://www.mof.gov.sg/budget_2008/speech_toc/downloads/FY2008_Budget_Highlights.pdf.

107. *See* AULT ET AL., *supra* note 1, at 103 ("In recent years the budget has been balanced and even with an increasing surplus (2001: 4.8%).").

108. MATS SJÖSTRAND, SWEDISH TAX AGENCY, TAXES IN SWEDEN 2009: AN ENGLISH SUMMARY OF TAX STATISTICAL YEARBOOK OF SWEDEN 8 (2009), *available at* <http://skateverk.se/download/18.233f91f71260075abe8800021511/10410.pdf>.

109. *Id.* at 9. Income taxes and social security taxes are imposed on income of the individual. AULT ET AL., *supra* note 1, at 102. The tax on earned income from employment and business is a progressive rate. *Id.* County and municipality income taxes are levied on income at rates decided upon by the local government, but normally average around 31%. *Id.* at 104.

110. SJÖSTRAND, *supra* note 108, at 9.

111. *Id.* at 14. Swedish taxpayers pay taxes only on income derived within the country, not on world-wide income, like the United States. INVEST IN SWED. AGENCY, FACT SHEET: TAXES IN SWEDEN I (2008), *available at* http://investsweden.us/literature/Taxes_in_Sweden.pdf.

112. AULT ET AL., *supra* note 1, at 102.

113. SJÖSTRAND, *supra* note 108, at 9.

Only 14% of the revenue came from taxes on capital and business.¹¹⁴ This category also includes the tax on real estate.¹¹⁵

Sweden has a form of social security tax.¹¹⁶ In 2007, basic pension contributions were charged at 7%.¹¹⁷ Social security contributions are paid by the employer, on up to 33% of earned income for employers and 31% of earned income for employees.¹¹⁸ About 60% of these contributions are considered taxes because they do not result in any social benefit.¹¹⁹

As a result of these taxing systems, working women's salaries are sometimes taxed three times, just like in the United States. Unlike the United States system, however, the Swedish income tax base is not riddled with deductions for the wealthy, or subsidies for savings.

A fairly significant portion—28% of the tax revenue—comes from taxes on goods and services, including the value added tax (VAT).¹²⁰ Sweden's VAT on goods and services has three levels:¹²¹ 25% for most goods and services (standard base), 12% for foods and hotel stays, and 6% for printed matter, cultural events, and transport of private persons.¹²² Again, if working women are more likely to spend more money on prepared meals, clothing, and other necessities for the family, such a system will decrease their welfare.

b. Tax Rates

Sweden's federal taxes are highly progressive, ranging up to 57% on high income earners.¹²³ The income tax rates levied on earned income ranges from around 13% to as high as 38%.¹²⁴ Sweden has a zero-bracket amount for personal income tax, which effectuates a threshold level of earned income for the income tax to be imposed.¹²⁵ No income tax is levied on the first 16,600 SEK (approximately \$2,278) of earned annual income.¹²⁶

114. *Id.*

115. *Id.* at 9, 13.

116. *Id.* at 11.

117. *Id.*

118. AULT ET AL., *supra* note 1, at 103.

119. *Id.* at 102–03, 103 n.14.

120. SJÖSTRAND, *supra* note 108, at 9, 16. In 2007, the total revenues amounted to 1484 billion SEK of which 479 billion was attributable to income taxes, 473 billion to social security contributions, and 288 billion to the VAT. *Id.* at 9, 11, 16.

121. SWEDISH TAX AGENCY, THE VAT BROCHURE, SKV 552B EDITION 10 (2010), available at <http://www.skatteverket.se/download/18.6efe6285127ab4f1d2580008468/552B10.pdf>.

122. SJÖSTRAND, *supra* note 108, at 16.

123. *Id.* at 25. Sweden and Denmark are competitors “for the dubious honor of the world’s highest tax burden.” LARSON, *supra* note 78, at 1.

124. SJÖSTRAND, *supra* note 108, at 25.

125. LARSON, *supra* note 78, at 5.

126. *Id.*

A 20% state income tax is imposed on individuals who earn more than 316,700 SEK per month and 25% for those earning more than 476,700 SEK per month.¹²⁷ In 2007 the average local income taxes levied by municipalities and county councils was 31.55% of every 100 SEK earned.¹²⁸ The basic allowance for these local taxes is usually 11,900 SEK, but could increase to a maximum of 31,100 SEK.¹²⁹ In 2007, the median income for full-time working males was 321,200 SEK; for full-time females the median income was 268,500 SEK.¹³⁰

Corporate tax rates for limited liability companies are levied at a flat rate of 28% on profits and other taxable income.¹³¹ Sole proprietors and trading partnerships are taxed as the owner's income from employment.¹³² Like the United States, corporations are subject to a system of double taxation.¹³³

3. Tax Unit

Perhaps the most significant tax change in the Swedish taxation system was the shift to the individual unit from the family-based system which aggregated the income of the household couple.¹³⁴ Now, each individual is taxed on what he or she earns or generates.¹³⁵ Nevertheless, the married couple is treated as one economic unit for purposes of unearned income.¹³⁶ Therefore, the incentive is not to share the underlying property that generates the unearned income.

The taxable unit was changed as a means of encouraging secondary workers (primarily women) to enter the workforce.¹³⁷ The Swedish system, in contrast to the American system,¹³⁸ ensures that the marginal tax rate on the secondary worker is not affected by the income level of the other partner.¹³⁹ This encourages women to work outside the home and return to work after exercising the parental leave allowances.¹⁴⁰

127. SJÖSTRAND, *supra* note 108, at 11.

128. *Id.* at 6, 10.

129. *Id.* at 10.

130. *Id.*

131. *Id.* at 47.

132. SJÖSTRAND, *supra* note 108, at 47.

133. AULT ET AL., *supra* note 1, at 102.

134. *Id.* at 262.

135. Palme, *supra* note 78, at 18.

136. Dulude, *supra* note 2, at 81.

137. AULT ET AL., *supra* note 1, at 262–63.

138. See I.R.C. § 1 (2006) (showing rates for aggregated income for married couples filing jointly versus those filing as individuals).

139. AULT ET AL., *supra* note 1, at 263.

140. Palme, *supra* note 78, at 18.

Instead of dependency exemptions or other deductions for families, Sweden, like most European countries, has a “family allowance” that arguably covers the involuntary expenditures of the minimal necessities of everyday life.¹⁴¹ In 2008, Sweden introduced a gender equality bonus designed to provide an incentive for mothers and fathers to share parental leave equally.¹⁴² With some of the same goals in mind, Sweden allows a deduction for some household-related services, in order to encourage women to increase their working hours.¹⁴³

At one point in the history of the Swedish tax system, a debate arose as to the desirability of allowing a deduction for the expenses of domestic workers.¹⁴⁴ In the 1990s when the state cut the elder care supports, a number of higher income citizens, including several government officials, hired under-the-table domestic workers.¹⁴⁵ In 1993, a tax subsidy for these expenses was proposed, debated, and defeated.¹⁴⁶ The proponents argued that these expenses were just like any other legitimate business expense.¹⁴⁷ The opponents argued that these were personal expenses, only benefiting the wealthy, and were inconsistent with the Swedish culture of equality.¹⁴⁸

The Swedish system allows deductions for all workers who incur work related expenditures. For example, all workers get a basic allowance of between SEK 12,600 (about \$1,625) and SEK 33,000 (about \$4,275).¹⁴⁹ The purpose of this provision was to encourage those on welfare (particularly single moms) to enter the market and get jobs.¹⁵⁰ Unlike the United States’

141. Olsen, *supra* note 11, at 146–47. The general child allowance, paid out to the child’s mother, covers all resident children until they reach 16 years of age (or 20 if a student, or 23 if attending a special school for the intellectually disadvantaged). The allowance is about 1050 SEK a month (around \$150). Sweden, CLEARINGHOUSE ON INT’L DEVS. IN CHILD, YOUTH, & FAMILY POLICIES AT COLUMBIA UNIV., <http://childpolicyintl.org/countries/sweden.html#familyallowances> (last visited July 31, 2011).

142. MINISTRY OF INTEGRATION & GENDER EQUAL., FACT SHEET: THE SWEDISH GOVERNMENT’S GENDER EQUALITY POLICY 3 (2009), available at <http://www.sweden.gov.se/sb/d/574/a/130715>.

143. *Id.* at 4.

144. John R. Bowman & Alyson M. Cole, *Do Working Mothers Oppress Other Women? The Swedish “Maid Debate” and the Welfare State Politics of Gender Equality*, 35 SIGNS: J. OF WOMEN IN CULTURE & SOC. 157, 158 (2009).

145. *See id.*

146. *Id.* at 161.

147. *Id.*

148. *Id.* at 163.

149. Sweden, in LEX MUNDI, TAX DESK BOOK 408, 408 (2010), available at <http://www.lexmundi.com/Document.asp?DocID=2316&SnID=2>.

150. *See* Rolf Aaberge & Lennart Flood, *Evaluation of an In-Work Tax Credit Reform in Sweden: Effects on Labor Supply and Welfare Participation of Single Mothers* 2–3 (IZA Discussion Paper, No. 3736, 2008), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1278937; Lennart Flood et al., *From Welfare to Work: Evaluating a Proposed Tax and Benefit*

earned income credit, however, there is no phase-out for high earners or any refund feature. Interestingly, the Swedish taxpayer is allowed a deduction for commuting, if the expenses exceed SEK 7,000 (about \$900) per year.¹⁵¹

Lastly, an important feature of the Swedish taxing system is the benefits the system provides to single parents. They qualify for additional family allowances as well as special tax breaks.¹⁵²

B. Singapore

While Sweden's taxing system is known for its equity, Singapore's taxing system is known for its simplicity and efficiency. Paying taxes in Singapore is so simple that some taxpayers are not required to file returns.¹⁵³ The Inland Revenue Authority of Singapore (IRAS), which receives employment information from employers, sends out a notice informing the employee of her tax liability.¹⁵⁴ If the taxpayers agree with the notice, they do nothing.¹⁵⁵ However, if they disagree or their circumstances change, they simply send in the correction.¹⁵⁶ The IRAS then gives an "assessment" and recalculates the tax.¹⁵⁷ The taxpayer can pay online, by phone, or with a check.¹⁵⁸ A survey of the two nations found that 96% of Singapore's taxpayers prepared their own returns, but only 37% of United States federal taxpayers did the same.¹⁵⁹

Singapore has no withholding of taxes for residents.¹⁶⁰ However, many employers pay their employees a half-month bonus in June and a full-month bonus in December.¹⁶¹ Such bonuses are part of the employment package and act as a kind of tax withholding, which many employees use to pay their

Reform Targeted at Single Mothers in Sweden 1 (IZA Discussion Paper, No. 891, 2003), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=459562.

151. AULT ET AL., *supra* note 1, at 208.

152. Dowd, *supra* note 2, at 323.

153. *Filing Tax: Do I Have to File Tax*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page.aspx?id=1448> (last visited June 10, 2011).

154. *Id.*

155. *Types of Income Tax Bill (Notice of Assessment-NOA)*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page01.aspx?id=124> (last visited June 10, 2011).

156. *After Filing Tax: Change Filing Details*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page04.aspx?id=120> (last visited June 10, 2011).

157. *After Getting the Tax Bill: What if the Tax Amount is Not Correct*, INLAND REVENUE AUTH. OF SING., http://www.iras.gov.sg/irasHome/page04_ektid126.aspx (last visited June 10, 2011).

158. *After Getting Tax Bill: How to Pay*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page03a.aspx?id=128> (last visited June 10, 2011).

159. Donna D. Bobek et al., *The Social Norms of Tax Compliance: Evidence from Australia, Singapore, and the United States*, 74 J. BUS. ETHICS 49, 54 (2007).

160. *What is a Withholding Tax?*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page04.aspx?id=3220> (last visited June 10, 2011).

161. See CHWEE HUAT TAN, A PRIMER: PERSONAL FINANCE IN SINGAPORE 43 (2d ed. 2001).

taxes.¹⁶² If the employer does not make such a bonus payment, employees are responsible for saving funds to pay their taxes.

Because of liberal exemptions, large numbers of Singaporeans do not even pay taxes.¹⁶³ In 2005, a little over 40% of the labor force were considered taxpayers.¹⁶⁴ Thus, the incentives that do exist in the income tax system fall on the higher income taxpayers.¹⁶⁵ Many of these rebates and relief measures are available only to women.¹⁶⁶

The tax system of Singapore is noteworthy for its mandated responsibility through forced savings.¹⁶⁷ The Central Provident Fund (CPF) is a trust fund generated by workers.¹⁶⁸ It is similar to the U.S. Social Security system except that, it is an actual existing fund, and in addition to retirement, it can be used as a safety net for education or other purposes, such as the purchase of a home or in case of unemployment.¹⁶⁹

Like Swedish citizens, Singaporeans perceive the system as transparent without hidden loopholes that favor the wealthy.¹⁷⁰ Thus, there is virtually no tax fraud in Singapore.¹⁷¹ With the traditional culture of deference to authorities and the additional desire to act for the good of all, evasion of taxes, or even avoidance, could be seen as a negative trait.¹⁷² In fact, a study on taxpaying mentality in Singapore, Australia, and the United States concluded “[T]he first and most influential factor was taxpayers’ own personal moral beliefs, along with the beliefs of those close to them (e.g., friends and important others).”¹⁷³

162. See Email Interview with Sien Lee, J.D., University of Oregon Law School, 2009; Singaporean mother of two (May 28, 2009) (on file with author).

163. Youyenn Teo, *Gender Disarmed: How Gendered Policies Produce Gender-Neutral Politics in Singapore*, 34 SIGNS: J. WOMEN CULTURE & SOC’Y 533, 542 (2009).

164. *Id.* at 543 n.15.

165. *Id.* at 542. Singapore had a controversial pro-natal policy that promoted child birth in high income populations. *Id.*

166. See *id.* at 543.

167. Callick, *supra* note 22.

168. Michael A. Lev, *Singapore’s Retirement System Worth Studying*, SEATTLE TIMES (Mar. 20, 2005), http://seattletimes.nwsourc.com/html/business/technology/2002213550_singapore20.html.

169. *Id.*

170. With Singapore’s economic advancement and younger generations who have not been exposed to the tumultuous early years of independence, there is no certainty that the same attitudes towards paying taxes will be sustained.

171. Choon Yin Sam, *Curbing Tax Evasion in Singapore: The Role of Governance and Corporate Governance Standards in the Tax Agency*, 11 INT’L PUB. MGMT. REV. 23, 24 (2010).

172. Bobek et al., *supra* note 159, at 57.

173. *Id.* at 49.

1. Direct Subsidies

In 2007 Singapore generated more than adequate revenue to effectively run its country and finance its limited welfare (housing, health, and education) system.¹⁷⁴ Singapore is so efficient in its collection process that in 2007 it ran primarily surpluses.¹⁷⁵ The scale of welfare support in Singapore is minimal compared to that of Sweden.¹⁷⁶ This is due in large part to Singapore's focus on "personal responsibility."¹⁷⁷ The charges the government makes for nannies are not placed back into the support system for working moms or their nannies but rather are used for general financing of the government.¹⁷⁸

The country's major revenue generating groups are the income tax and the value added tax. In 2009, almost 39.6% of its revenues came from the income tax and 17.5% from the VAT.¹⁷⁹ Most of the revenue raised, nearly 46%, is used for "Social Development," which includes housing, education, and health.¹⁸⁰ In 2009, almost 35% of Singapore's budget went into "Security and External Relations," of which 77% was allocated to the Ministry of Defense.¹⁸¹ Although this amount is quite large when compared to Sweden, Singapore is known for its surveillance and autocracy.

2. Vertical Equity

The Singapore tax system is vertical equitable in that many low-income taxpayers are exempt from tax. The rates are not progressive, but the base is comprehensive. It is very working-mother friendly for the upper income groups since many exemptions are provided in the tax system for family responsibilities.

174. SING GOV'T, *supra* note 106, at 4.

175. *Id.*

176. See Youyenn Teo, *Inequality for the Greater Good: Gendered State Rule in Singapore*, 39 CRIT. ASIAN STUD. 423, 426 (2007) ("The Singapore state is situated in such a demographic context, and, in contrast to some European states, it tries to appear staunchly 'anti-welfare' as it presents itself.").

177. Callick, *supra* note 22.

178. See Yeoh & Annabnurai, *supra* note 12, at 550. Employers post a security bond to ensure that the employer has sufficient funds to repatriate the worker at the end of the contract. See Yeoh et al., *supra* note 12, at 118 (stating levy is to regulate not as a trust fund). Again, it appears as though, except for the permit process, the maids are the "personal responsibility" of the family.

179. SINGAPORE GOV'T, REVIEW OF FINANCIAL YEAR 2010, available at http://www.singaporebudget.gov.sg/budget_2011/revenue_expenditure/toc.html.

180. *An Overview of the Singapore Tax System*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page03a.aspx?id=5676> (last visited June 10, 2011).

181. *Expenditure Overview*, SING. BUDGET, http://www.mof.gov.sg/budget_2009/expenditure_overview/social_dev.html (last visited June 10, 2011).

a. Tax Base

Singapore raises revenue through an income tax, a VAT, and other charges. Most of this revenue is raised through the income tax.¹⁸² Singaporeans pay tax on income earned in Singapore or derived from Singapore-based business.¹⁸³ The income base is fairly comprehensive.¹⁸⁴ Besides deductions for business expenses and rental expenses, the income tax has fifteen clearly defined deductions and two tax rebates or allowances.¹⁸⁵ Of the fifteen deductions, the Earned Income Relief¹⁸⁶ is for everyone who received earned income.¹⁸⁷ This is similar to the Swedish system and unlike the United States earned income credit. In addition to the eight provisions discussed in the prior section, there is a tax write-off for charitable donations and a special allowance or rebate to “cushion the effects of the economic downturn on individuals.”¹⁸⁸ Lastly, there are several retirement fund (CPF) initiatives to encourage savings.¹⁸⁹

It is important to note that Singapore also has “charges” or “fees” that help with raising revenue. Large amounts of revenue are raised through charges for maid or nanny services.¹⁹⁰ It is also important to note that, unlike many excise taxes in the United States, none of these funds go back into the system to help with the immigration or support of these servants.¹⁹¹

b. Tax Rates

In contrast to Sweden, the income tax rates for Singaporeans are quite low. Those whose taxable income is \$20,000 or less pay no income tax at all.¹⁹² The rate for the next \$10,000 is 3.5%.¹⁹³ The rate is progressive and caps at 20% for people who earn over \$320,000.¹⁹⁴ Consequently, about 40% of

182. S. Sharma, *Tax Headaches & How to Treat Them*, SMA NEWS, May 2002, at 8, 9.

183. PRICEWATERHOUSECOOPERS, TAX FACTS & FIGURES: 2009 SINGAPORE 1, available at <http://www.pwc.com/sg/en/tax-facts-and-figures>.

184. *Id.*

185. *Individuals (For Locals)*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page01.aspx?id=110> (last visited June 10, 2011).

186. *Earned Income Relief*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page01.aspx?id=200> (last visited June 10, 2011). This is to recognize earners and their job related expenses. *Id.*

187. PRICEWATERHOUSECOOPERS, *supra* note 183, at 4.

188. *Individuals (For Locals)*, *supra* note 185.

189. Lev, *supra* note 168.

190. Yeoh et al., *supra* note 12, at 121 (noting the “total sum collected each year is by no means small, amounting to an annual figure in the region of \$30 million”).

191. See *supra* note 178 and accompanying text.

192. *Income Tax Rates*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page04.aspx?id=1190> (last visited Sept. 19, 2010).

193. *Id.*

194. *Id.*

residents pay no taxes.¹⁹⁵ Because of these low rates, it is fairly easy for Singaporeans to pay their taxes. In addition, low rates of income tax encourage compliance and cooperation. Furthermore, the Singapore government is very fiscally frugal, often resulting in yearly budget surpluses.¹⁹⁶ Low taxes also encourage economic growth because there is more income for the taxpayer to save and invest. Clearly, one of Singapore's tax policies has been to grow its economy through its simple and low taxing scheme.

3. Tax Unit

Like Sweden, the taxable unit in Singapore is the individual.¹⁹⁷ Unlike Sweden, however, the Singapore income tax provides numerous deductions and credits for family responsibility. These tax incentives “mark the expectation that women play dual roles as workers and mothers”¹⁹⁸ and are a “central strategy for encouraging fertility” and reinforcing the woman's supportive role within the family.¹⁹⁹ Seven of the income tax deductions relate to having or caring for children, grandparents, or handicapped siblings: the Qualifying Handicapped Child Relief,²⁰⁰ the Working Mother's Child Relief,²⁰¹ the Grandparent Caregiver Relief,²⁰² the Spouse Relief,²⁰³ the Parent/Handicapped Parent Relief,²⁰⁴ the Handicapped Brother/Sister Relief,²⁰⁵ and the Foreign Maid Levy Relief.²⁰⁶ In addition there is a Parenthood Tax

195. See Teo, *supra* note 163, at 543 n.15.

196. See *supra* note 174 and accompanying text.

197. See Inland Revenue Authority of Singapore, <http://www.iras.gov.sg/irasHome/page04.aspx?id=1190>.

198. Teo, *supra* note 176, at 429.

199. Teo, *supra* note 163, at 542.

200. *Qualifying Child Relief/Handicapped Child Relief*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page01.aspx?id=214> (last visited June 10, 2011). This is to recognize the support for dependent/handicapped children. PRICEWATERHOUSECOOPERS, *supra* note 183, at 6.

201. *Working Mother's Child Relief*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page01.aspx?id=220> (last visited June 10, 2011). This is to encourage married women to remain in the workforce. PRICEWATERHOUSECOOPERS, *supra* note 183, at 6.

202. *Grandparent Caregiver Relief*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page01.aspx?id=204> (last visited June 10, 2011). This relief is provided to grandparents who care for their grandchildren. PRICEWATERHOUSECOOPERS, *supra* note 183, at 6.

203. *Spouse Relief*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page01.aspx?id=218> (last visited June 10, 2011). This is also entitled the “Spouse/Handicapped Spouse Relief” and is intended to provide relief for supporting a non-earner spouse. *Id.*

204. *Parent/Handicapped Parent Relief*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page01.aspx?id=212> (last visited June 10, 2011).

205. *Handicapped Brother/Sister Relief*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page01.aspx?id=206> (last visited June 10, 2011).

Rebate,²⁰⁷ similar to the Swedish family allowance, but only available to married couples.²⁰⁸ Again, the purpose here is to encourage couples to have more children.²⁰⁹

Three of these tax deduction provisions are available only to working mothers: the Working Mother's Child Relief,²¹⁰ the Grandparent Caregiver Relief,²¹¹ and the Foreign Maid Levy Relief.²¹² Resident working mothers that were married, divorced, or widowed in the previous year are eligible for a Working Mother's Child Relief.²¹³ This specific deduction aims to encourage mothers to remain in the workforce after giving birth.²¹⁴ The Grandparent Caregiver Relief, like most of the other deductions, is for taking care of one's parents, grandparents, handicapped siblings or a disabled or divorced spouse. The tax system also provides tax relief to married working mothers who employ foreign domestic workers: The Foreign Maid Levy Relief.²¹⁵ This relief is equal to twice the tax paid to the immigrant domestic worker.²¹⁶ In essence, this results in all taxpayers subsidizing this particular family arrangement.²¹⁷

206. *Foreign Maid Levy Relief*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page01.aspx?id=202> (last visited June 10, 2011). This subsidy is to encourage married women to "remain in the work force" and also encourage "procreation." *Id.* Single women and males are not eligible for this subsidy. *See id.*

207. *Parenthood Tax Rebate*, INLAND REVENUE AUTH. OF SING., <http://www.iras.gov.sg/irasHome/page01.aspx?id=1528> (last visited June 10, 2011). This subsidy encourages children and provides financial support to parents. *Id.*

208. *Id.*

209. *Id.*

210. PRICEWATERHOUSECOOPERS, *supra* note 183, at 6.

211. *Id.*

212. Teo, *supra* note 176, at 429. *See also supra* notes 175–77.

213. *Working Mother's Child Relief*, *supra* note 201; *see also* PRICEWATERHOUSECOOPERS, *supra* note 183, at 6.

214. Teo, *supra* note 176, at 429. In terms of coherence, Singapore's system clearly signals that the goal of taxation is to raise revenue, and gives incentives for intra-familial responsibilities and increasing the birth rate. The government has tried for two decades to increase the birthrate, but to no avail. Promoting population growth is considered important enough to involve the tax code, because Singapore has one of the lowest birth rates in the world. *Population in Brief 2010*, <http://www.singstat.gov.sg/stats/themes/people/popinbrief2010.pdf>.

215. *Foreign Maid Levy Relief*, *supra* note 206.

216. *Id.*; *see also* Yeoh et al., *supra* note 12, at 123.

217. *See* Teo, *supra* note 163, at 544 ("[I]n offering tax relief to married working mothers who employ foreign domestic workers (and not to most other categories of Singaporeans) the state compels all taxpayers to subsidize a particular familial arrangement built upon lopsided gendered divisions of labor.").

C. *United States*

While the Swedish tax system is known for its equity and the Singapore tax system is known for its efficiency, the U.S. tax system is known for its complexity.²¹⁸ The United States has a federal system comprised of income, Social Security, excise, estate, gift, and generation-skipping taxes.²¹⁹ In addition, each state in the United States has a property tax, plus either an income tax or a consumption tax, or both.²²⁰ The U.S. system has been criticized as yielding excessive tax breaks for particular constituencies and, as a result, being “riddled with loopholes.”²²¹ The federal income tax code is full of subsidies for education,²²² housing,²²³ charities,²²⁴ and the environment.²²⁵ Despite its complexities, the overall effectiveness, including administration and implementation, of the system is reflected by the high rate of compliance by taxpayers.²²⁶ However, tax avoidance is very common and accepted.²²⁷

218. JOEL SLEMROD & JON BAKIJA, *TAXING OURSELVES: A CITIZEN’S GUIDE TO THE DEBATE OVER TAXES* 3 (4th ed. 2008).

219. *Id.* at 14. As of this writing (Jan. 13, 2010) the federal estate tax has been repealed.

220. *Sheets: Taxes: State and Local Taxes*, U.S. DEP’T OF TREASURY, <http://www.ustreas.gov/education/fact-sheets/taxes/state-local.shtml> (last visited Sept. 2, 2010). As a response to these complexity issues, many argue that U.S. tax policy needs to focus on increasing practicality by making the system easier to understand, administer, and implement, with the overall goal being to create a cost-effective system that allows taxes to be easily collected. SLEMROD & BAKIJA, *supra* note 218, at 3–4.

221. *See* STEINMO, *supra* note 1. Although many Americans seem to favor the idea of flat taxes, they tolerate the present system. *See* Livingston, *supra* note 1, at 563.

222. *See generally* NANCY SHURTZ, *EDUCATION PLANNING: TAXES, TRUSTS, AND TECHNIQUES* (2009); Charlotte Crane, *Scholarships and the Federal Income Tax Base*, 28 HARV. J. ON LEGIS. 63 (1991); John K. McNulty, *Tax Policy and Tuition Credit Legislation: Federal Income Tax Allowances for Personal Costs of Higher Education*, 61 CAL. L. REV. 1 (1973); Sean M. Stegmaier, *Tax Incentives for Higher Education in the Internal Revenue Code: Education Tax Expenditure Reform and the Inclusion of Refundable Tax Credits*, 37 SW. U. L. REV. 135 (2008).

223. *See generally* William G. Gale et al., *Encouraging Homeownership Through the Tax Code*, 115 TAX NOTES 1171 (2007); Mark Andrew Snider, *The Suburban Advantage: Are the Tax Benefits of Homeownership Defensible?*, 32 N. KY. L. REV. 157 (2005).

224. *See generally* Boris I. Bittker, *Charitable Contributions: Tax Deductions or Matching Grants?*, 28 TAX L. REV. 37 (1972); Paul R. McDaniel, *Federal Matching Grants for Charitable Contributions: A Substitute for the Income Tax Deduction*, 27 TAX L. REV. 377 (1972); C. Eugene Steuerle & Martin A. Sullivan, *Toward More Simple and Effective Giving: Reforming the Tax Rules for Charitable Contributions and Charitable Organizations*, 12 AM. J. TAX POL’Y 399 (1995).

225. *See* Mona L. Hymel, *The Population Crisis: The Stork, The Plow, and the IRS*, 77 N.C. L. REV. 13 (1998); Roberta Mann, *Waiting to Exhale?: Global Warming and Tax Policy*, 51 AM. U. L. REV. 1135 (2002).

226. Livingston, *supra* note 1, at 561. Compared to Sweden and Singapore, however, the compliance is much lower. In 2001, the tax compliance rate was estimated at about 84%. *Enforcement of Tax Laws*, U.S. GOV’T ACCOUNTABILITY OFFICE, http://www.gao.gov/highrisk/risks/tax-law/tax_laws.php (last visited Jan. 1, 2010).

The United States is less focused on vertical equity than Sweden.²²⁸ Nevertheless, the federal income tax is progressive, with marginal rates up to 35%.²²⁹ Other taxes, most notably the Social Security tax and capital gains taxes, as well as virtually all state tax systems, are regressive.²³⁰ As one website notes, the Gini coefficient (a measure of inequality of income distribution) for the United States is 0.466.²³¹ As mentioned earlier, this coefficient ranges between zero and one, and the closer the value is to zero, the more equal the distribution of wealth.²³² The statistics show that the U.S. Gini coefficient has been increasing slowly over the years.²³³

Some scholars believe that there is “long-term erosion in the support for progressivity” in the United States.²³⁴ Progressive taxation reflects a nation’s commitment that costs of government should be based on ability to pay.²³⁵ One feminist scholar, Majorie Kornhauser, views the progressive tax as obligatory toward the good of society as “a means by which individuals fulfill their responsibilities to others.”²³⁶ Unfortunately, regressive taxes hit working mothers particularly hard, resulting in less disposable income for the necessities of child care, health care, college, and other expenditures.²³⁷ Livingston argues that the weakened support for progressivity arises from three processes: the conservative direction of politics in the United States, poverty among women and minorities, and the effect of the globalization process, which suggests that a country with progressive rates will lose business to other countries.²³⁸

227. SLEMROD & BAKIJA, *supra* note 218, at 145.

228. STEINMO, *supra* note 1, at 37.

229. These rates are due to expire and increase to 39.6% in 2011. See Eric Fox, *How Will the Expiring Bush Tax Cuts Affect You?*, FORBES.COM (July 22, 2010, 2:30 PM), available at <http://www.forbes.com/2010/07/22/expiring-bush-cuts-affect-personal-finance-taxes.html>.

230. See Brian Roach, *Progressive and Regressive Taxation in the United States: Who’s Really Paying (and Not Paying) Their Fair Share?* 8 (Global Dev. & Env’t Inst., Working Paper No. 03-10, 2003).

231. Carter Romansky, *Dissect-O-Stat: The Gini Coefficient*, 90WAYS.COM, <http://90ways.com/essayarchive/essay69.php> (last visited Sept. 20, 2010).

232. See CIA WORLD FACTBOOK, *supra* note 19.

233. Eric M. Zolt, *Inequality, Collective Action, and Taxing and Spending Patterns of State and Local Governments*, 62 TAX L. REV. 445, 490 (2009).

234. Livingston, *supra* note 1, at 559. There is continued discussion and literature regarding proposals for redistribution of wealth, but most of the concern focuses on “a reshuffling of resources for the sake of some vague principle of fairness.” Shurtz, *supra* note 70, at 528–29.

235. Ferrarini & Nelson, *supra* note 81, at 10.

236. Marjorie E. Kornhauser, *The Rhetoric of the Anti-Progressive Income Tax Movement: A Typical Male Reaction*, 86 MICH. L. REV. 465, 518 (1987).

237. Diana Furchtgott-Roth, *Higher Taxes Hit Working Wives*, REUTERS BLOG (Mar. 4, 2009, 9:12 PM), <http://blogs.reuters.com/great-debate/2009/03/04/higher-taxes-hit-working-wives>.

238. Livingston, *supra* note 1, at 559.

The conservative direction of the country has resulted in tax policy being focused on economic growth rather than equity.²³⁹ Since the United States is a very capitalist society, it prides itself on rewarding perseverance and entrepreneurship as a means of success and wealth. Americans strive to improve their lives through work, home ownership (and even vacation home ownership), and at death, they want to leave their children with substantial inheritances.²⁴⁰ Overall, Americans expect consistent growth and they are firm believers in the market-based economy.

Political philosophy thus plays a significant role in U.S. tax policy.²⁴¹ The United States has largely adopted a model of “personal responsibility.”²⁴² The individual is seen as capable of providing for himself or herself and his or her family by working and saving.²⁴³ Thus, they are responsible for child rearing, preschool, college costs, and (historically) health care.²⁴⁴ Only in unusual circumstances, such as welfare, unemployment, disability, or retirement (and in the future, health care) will the state provide support.²⁴⁵

Americans’ opinion on the tax code varies. A Kaiser Family Foundation survey indicated that a slim majority (51%) believe the federal tax system is fair—up a few percentage points from the past few years.²⁴⁶ An ABC News/Washington Post Poll indicated that taxpayers want to keep the Bush tax cuts but are very concerned with the deficit and spending.²⁴⁷ Finally, a Gallup survey conducted in April of 2010 showed that Americans are split on whether their taxes are too burdensome.²⁴⁸ Gallup has been asking Americans about

239. ABRAMOVITZ & MORGEN, *supra* note 30, at 70–73, 83–84 (stating that the trend for less progressive taxation accelerated with the election of President Ronald Reagan and were made worse by the Bush tax cuts). *See also id.* at 61 (describing the Bush repeal of the estate tax, elimination of the phase-out tax provisions under Section 68 and Section 152 of the Code).

240. The United States was born from humble roots and yet became a global superpower in less than 200 years as a result of the nation’s achievements.

241. Livingston, *supra* note 1, at 562. These philosophical views differ between individualism and egalitarianism. *See id.* Egalitarians see the tax system as part of one’s civic duty and view fairness as a major argument for tax compliance. *Id.*

242. *See id.* (discussing the importance of individualism to Americans).

243. *See id.*

244. *See* discussion *infra* Part I.C.2.a.

245. *See infra* notes 300–04 and accompanying text (discussing the American Social Security system).

246. NPR/KAISER/KENNEDY SCH., POLL: AMERICANS’ VIEWS ON TAXES I (2003), available at <http://www.kff.org/kaiserpolls/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=14296>.

247. *Washington Post–ABC News Poll*, WASHINGTONPOST.COM, http://washingtonpost.com/wp-srv/politics/polls/postpoll_060810.html (last visited July 31, 2011).

248. Frank Newport, *Americans Split on Whether Their Income Taxes are Too High*, GALLUP (Apr. 14, 2010), <http://www.gallup.com/poll/127346/americans-split-whether-income-taxes-high.aspx>.

their taxes since 1956 and in almost every year, Americans have considered their taxes too high.²⁴⁹

The legislative tax-writing process in the United States is complex and involves a mixture of partisanship and nonpartisanship, consensus, and institutional input from a variety of committees and counsels, such as the congressional Joint Committee on Taxation and the Department of the Treasury Office of Tax Legislative Counsel.²⁵⁰ The Internal Revenue Service is a bureau of the Department of the Treasury and is one of the most efficient tax administrators in the world.²⁵¹ The process of tax-writing involves balancing the division of power between the various congressional committees, other actors (including lawyers), and state and federal governments.²⁵² As might be expected, “change tends to be slow and incremental and it is difficult to ascribe any clear ideological direction to it.”²⁵³

1. Direct Subsidies

The U.S. federal tax system as a whole does not rate as well on the tests of fiscal adequacy as Sweden and Singapore. While both Singapore and Sweden have had recent budget surpluses, the current national debt of the United States is almost nine trillion dollars.²⁵⁴ Such debt is detrimental to the most vulnerable—single moms and children—because debt often results in reduced social welfare spending and/or increased regressive taxation.²⁵⁵ Similarly, the requirement that states have to balance their budgets has caused hardship to working mothers and children.²⁵⁶

The federal budget outlays consist of 37% for Social Security, Medicare, and other retirement benefits; 24% for defense and related expenses; 20% for social programs; 9% for community development; 8% for interest on the debt; and 2% for law enforcement and general government expenses.²⁵⁷ Of these outlays, a relatively small percentage goes to the means-tested social welfare programs, in contrast to those for unemployment and Social Security.²⁵⁸

249. *Id.*

250. Livingston, *supra* note 1, at 561.

251. *The Agency, Its Mission and Statutory Authority*, INTERNAL REVENUE SERV., <http://www.irs.gov/irs/article/0,,id=98141,00.html> (last visited Jan. 1, 2010).

252. Livingston, *supra* note 1, at 561–62.

253. *Id.* at 562.

254. *The Debt to the Penny and Who Holds It*, TREASURYDIRECT, <http://www.treasurydirect.gov/NP/BPDLogin?application=np> (as of Sept. 17, 2010).

255. ABRAMOVITZ & MORGEN, *supra* note 30, at 103.

256. *Id.* at 79–82.

257. *1040A—Main Contents*, IRS.GOV, <http://www.irs.gov/instructions/i1040a/ar02.html#d0e59772> (last visited June 10, 2011).

258. ABRAMOVITZ & MORGEN, *supra* note 30, at 59 (stating that in 2003 the federal government spent 61% of its outlays on programs that serve large numbers of people, like

In addition to the regular budget, the United States has a tax expenditure budget that lists various policy categories and lost revenues from various tax exemptions, deductions, and credits.²⁵⁹ These tax expenditures cost the government more than the amounts spent on social welfare programs.²⁶⁰ For example, “[i]n 2002, \$609 billion was spent on fiscal welfare. This is \$320 billion more than was spent on non-defense discretionary programs . . . \$323 billion more than on means-tested programs . . . and \$156.9 billion more than on on Social Security.”²⁶¹ Many of the largest tax expenditure programs are for homeowners or individuals with higher education expenses, employer-sponsored health insurance coverage, or employer-sponsored retirement pensions—expenditures involving savings and wealth of no benefit to poor working mothers.²⁶² Furthermore, in recent years these tax expenditures have expanded and widened the gap between the social welfare programs and those from the tax code.²⁶³

2. Vertical Equity

The United States federal tax systems (income and social security) do not primarily focus on vertical equity. The federal income tax seems to focus on economic policies, including those involving consumption and savings. The federal income tax base is riddled with preferences for the wealthy and most state tax systems are regressive.

a. Tax Base

The major income generating taxes in the United States are personal income taxes; Social Security and Medicare taxes; corporate income taxes; and excise, estate, and gift and other similar taxes. In 2009, 43% of the revenue came from the individual income tax system, including tax on capital income, 42% arose from social insurance and retirement receipts, 7% from corporate

unemployment insurance, social security, but only 12% for Medicaid, TANF and other means-tested programs).

259. See STAFF OF J. COMM. ON TAX’N, 106TH CONG., ESTIMATES OF FEDERAL TAX EXPENDITURES FOR FISCAL YEARS 2005–2009, at 1 (J. Comm. Print 2005) [hereinafter ESTIMATES].

260. ABRAMOVITZ & MORGEN, *supra* note 30, at 59.

261. *Id.* at 59–60.

262. *Id.* at 47–49. For example, in fiscal year 2011, the housing related tax expenditures was \$221.3 billion, OFFICE OF MGMT. & BUDGET, ANALYTICAL PERSPECTIVES: BUDGET OF THE U.S. GOVERNMENT: FISCAL YEAR 2011, at 210, 212 (2010), available at <http://www.gpoaccess.gov/usbudget/fy11/pdf/spec.pdf>, twice as much as the direct budgetary expenses for rental and public housing. ABRAMOVITZ & MORGEN, *supra* note 30 at 60 (citing CTR. FOR CMTY. CHANGE, CTR. FOR ECON. & POLICY RESEARCH, THE CRISIS IN AMERICA’S HOUSING: CONFRONTING MYTHS AND PROMOTING A BALANCED HOUSING POLICY (2005), available at <http://www.nlihc.org/doc/housingmyths.pdf>).

263. ABRAMOVITZ & MORGEN, *supra* note 30, at 61–62.

income tax, 4% from estate, gift, and excise taxes, and 4% from other sources.²⁶⁴

In the United States, Social Security is a mandatory supplemental retirement system established in 1935 as part of President Franklin Delano Roosevelt's New Deal.²⁶⁵ Social Security was motivated by the events of the Great Depression during which many unemployed workers and retired elderly were left in poverty.²⁶⁶ The Social Security program was intended to ensure that any wage-earner who paid into the system would receive benefits that did not fall below a basic subsistence level.²⁶⁷ From its inception, however, it allowed for benefits to "house spouses."²⁶⁸ For example, if a woman has never worked in the market but is married to a worker husband, she may claim Social Security through him.²⁶⁹ If she works, she can claim her benefits or 50% of her husband's, whichever is greater.²⁷⁰ If she gets divorced but has been married for ten years, she also can claim under her ex-husband.²⁷¹ Lastly, if she is widowed and has not remarried at retirement age, she also may claim through her deceased spouse.²⁷² Social Security is funded out of payroll taxes, i.e. a certain percentage of a worker's paycheck (currently 12.4%) goes directly into the Social Security fund to help provide benefits to current recipients up to a base amount of \$106,800.²⁷³ In recent years, current workers have complained that the system is unsustainable and will not be available

264. OFFICE OF MGMT. & BUDGET, BUDGET OF THE U.S. GOVERNMENT: FISCAL YEAR 2011, at 149 tbl.S-3 (2010), available at <http://www.gpoaccess.gov/usbudget/fy11/pdf/budget.pdf>.

265. Abraham Epstein, "Social Security" Under the New Deal, 141 THE NATION 261 (Sept. 4, 1935), available at <http://www.thenation.com/article/social-security-under-the-new-deal>.

266. *Id.*

267. Arthur J. Altmeyer, Chairman, Social Security Board, Radio Address delivered over Columbia Network: Goals for Social Security (Feb. 11, 1945), available at <http://www.ssa.gov/history/aja245.html>.

268. *Id.*

269. *Benefits for Your Spouse*, SOC. SEC. ADMIN., http://www.ssa.gov/retire2/your_spouse.htm (last visited Jan. 1, 2010).

270. Mary E. Becker, Commentary, *Obscuring the Struggle: Sex Discrimination, Social Security, and Stone, Seidman, Sunstein & Tushnet's* Constitutional Law, 89 COLUM. L. REV. 264, 280 (1989).

271. *Benefits for Your Divorced Spouse*, SOC. SEC. ONLINE, http://www.ssa.gov/retire2/your_divspouse.htm (last visited Jan. 9, 2011).

272. SOC. SEC. ADMIN., SURVIVORS BENEFITS 10 (2011), available at <http://www.ssa.gov/pubs/10084.pdf>.

273. KATHY RUFFING, CTR. ON BUDGET & POLICY PRIORITIES, A CASE FOR SOCIAL SECURITY COST-OF-LIVING ADJUSTMENT IN 2010 IS WEAK: IF POLICYMAKERS FEEL A NEED TO ACT, THEY SHOULD CONSIDER A ONE-TIME PAYMENT 6 (2009), available at <http://www.cbpp.org/files/10-14-09bud.pdf>.

when they retire.²⁷⁴ The Medicare tax is a flat rate of 1.45% but has no income limit.²⁷⁵

Corporate income in the United States is subject to a double tax.²⁷⁶ Corporate income is first taxed to the corporation and then taxed again when the income is distributed to the shareholders of the corporation, at a reduced rate.²⁷⁷ A shareholder is allowed “a deduction for a percentage of the dividend a corporate shareholder receives,” which will depend on the level of shareholding.²⁷⁸ Corporate income tax also has an alternative minimum tax (AMT) that is levied at 20%, after the \$40,000 allowance, which gets phased out.²⁷⁹ Unlike individual income, corporate income does not enjoy a reduced rate of tax on capital gains.²⁸⁰

Under the federal income tax system, all working moms, whether filing jointly or as head of household, can qualify for the dependency exemption, as well as the Child Tax Credit, if they do not make too much money.²⁸¹ The dependency exemption allows a parent to decrease his or her taxable income for each person they support.²⁸² In order for the parent to claim a dependency exemption, the child must meet certain characteristics and must not claim a personal exemption on their own tax return.²⁸³ In order to claim the per child credit, the taxpayer must not make over a certain amount of adjusted gross income.²⁸⁴ For lower income taxpayers, the credit is partially refundable and was recently amended to include more than two children.²⁸⁵ As an alternative, or in addition to the credit, some employers subsidize child care as a non-taxable fringe benefit.²⁸⁶ Lastly, poor wage earning mothers can obtain the earned income tax credit (EITC).²⁸⁷ “According to Census Bureau data, the

274. Thomas N. Bethell, *Social Security: Where Do We Go From Here? Americans Count on the 75 Year System*, AARP (July 1, 2010), http://www.aarp.org/work/social-security/info-07-2010/social_securitywhere_do_we_go_from_here.html.

275. SOC. SEC. ADMIN., UPDATE 2010: ELECTRONIC FACT SHEET (2010), available at <http://www.ssa.gov/pubs/10003.pdf>.

276. AULT ET AL., *supra* note 1, at 145.

277. *Id.*

278. *Id.*

279. *Id.* at 146.

280. *Id.* at 145.

281. I.R.C. § 152 (2006); *see also* I.R.C. § 24 (2006).

282. *Id.* § 152(c); INTERNAL REVENUE SERV., DEP'T OF TREASURY, PUBLICATION 501, EXEMPTIONS, STANDARD DEDUCTION, AND FILING INFORMATION 11 (2010), available at <http://www.irs.gov/pub/irs-pdf/p501.pdf>.

283. INTERNAL REVENUE SERV., *supra* note 282, at 12.

284. I.R.C. § 24(b) (2006).

285. *Id.* § 24(d).

286. *Id.* § 129.

287. ABRAMOVITZ & MORGEN, *supra* note 30, at 50.

EITC lifts 4.9 million people above the poverty level annually, including more than 2.7 million children.²⁸⁸

Scholars have disagreed over whether children in America are public goods, investments, or consumers.²⁸⁹ In the U.S. tax system, children are generally considered the personal consumption and responsibility of the parent.²⁹⁰ Child care expenses are deemed personal expenses that do not qualify for a deduction as an ordinary business expense.²⁹¹ Although child care expenses are not deductible, there is a limited credit that provides for employment-related child or dependent care expenses.²⁹²

In general, housework and child care in the United States are not taxed.²⁹³ It is recognized that housework is performed predominantly by women, and one feminist scholar, Nancy Staudt, has suggested that this work should be valued and taxed in order “to ensure women have access to social welfare benefits typically tied to waged labor, such as social security, disability, and Medicare benefits.”²⁹⁴ On the other hand, other scholars have pointed out the difficulties surrounding the valuation of housework, including the complexity of determining a satisfactory formula for calculating its value and identifying the proper taxable unit, as well as the potential of harming single mothers.²⁹⁵

The U.S. federal income tax system is riddled with exemptions, deductions, and credits. This has led one commentator to predict that “the income tax will become a misnomer—it will really be a salary tax.”²⁹⁶ From a working mother’s perspective, there seem to be three major problems with the federal income tax base. First, the savings tax benefits, such as those for retirement, education, and health, are favored. These subsidies are unavailable to those who are unable to save.²⁹⁷ Second, many of the subsidies for consumption items are of no benefit to the working mom.²⁹⁸ Third, the system favorably taxes certain investment income.²⁹⁹

288. *Id.* at 51. Unfortunately, many people, including a disproportionate number of minorities, are unaware of their eligibility. *Id.* at 57–58.

289. O’Kelley, *supra* note 23, at 378–79.

290. *Id.* at 377. Child care is one of the largest expenses that many families have. See Stacey L. Bradford, *Cut Your Child-Care Costs*, SMARTMONEY (Feb. 5, 2010), <http://www.smartmoney.com/Personal-Finance/Taxes/Cut-Your-Child-Care-Costs-14246>.

291. O’Kelley, *supra* note 23, at 377.

292. See AULT ET AL., *supra* note 1, at 216.

293. *But see* Staudt, *supra* note 33, at 1576.

294. *Id.* at 1647.

295. Shurtz, *supra* note 70, at 514, 515.

296. Allan Sloan, *Why Your Tax Cut Doesn’t Add Up*, NEWSWEEK, Apr. 12, 2004, at 42.

297. See ABRAMOVITZ & MORGEN, *supra* note 30, at 57.

298. *See id.* at 55.

299. *See id.* at 56–57.

Perhaps the largest amount of federal tax subsidies goes to retirement.³⁰⁰ Retirement is important for working mothers, but they are more dependent on Social Security because of their lower wages.³⁰¹ Nevertheless, the federal tax system provides numerous employer-based and private tax incentives to motivate citizens to save for their own retirement. These include “Individual Retirement Accounts (IRAs), 401(k)s, Keogh Plans, or Simplified Employee Pensions (SEPs).”³⁰² In addition, there is a credit for retirement savings contributions for low or moderate income earners.³⁰³ Ironically, the contribution limits for the traditional IRA and the Roth IRA were increased to allow older women over the age of fifty-five to “catch-up” by contributing more to these savings plans.³⁰⁴ Unfortunately, women who cannot save money cannot benefit from this provision.

Another large tax expenditure item is education.³⁰⁵ Paying for college is important to working moms and has become increasingly difficult in America.³⁰⁶ College tuition has risen disproportionately to wages,³⁰⁷ and students often end up with heavy loans to pay off.³⁰⁸ To assist taxpayers with paying for college for their children or themselves, the IRS provides tax benefits for those who are saving for or paying college tuition. These include: the Qualified Tuition Program (QTP); the Coverdell Education Savings Account (ESA); the Education Savings Bond Program; the Education Exemption to Additional Tax on Early IRA Distributions; the American Opportunity Credit; the Lifetime Learning Credit; the Student Loan Interest Deduction; and Tuition and Fees Deduction.³⁰⁹ One of the major problems

300. *See id.* at 33.

301. *Id.* at 35, 53–54.

302. ABRAMOVITZ & MORGEN, *supra* note 30, at 54.

303. I.R.C. § 25B (2006).

304. *Id.* § 219.

305. *See* ESTIMATES, *supra* note 259, at 35. *See also* Ruth Lynch Buchwalter, Note, *Should 1+1=2?: Does the Structure of Federal Income Tax Expenditures for Higher Education Disadvantage Women and Low-Income Individuals?*, 22 WOMEN’S RTS. L. REP. 77 (2000).

306. With the recent budget cuts the ability of students to obtain subsidized loans and low interest rates has been diminished. *See* Jeanne Sahadi, CBO: *Debt Ceiling Cuts at Least \$2.1 Trillion*, CNN.COM (Aug. 1, 2011), http://money.cnn.com/2011/08/01/news/economy/debt_ceiling_deal_cbo.

307. SHURTZ, *supra* note 222, at 9–10 (explaining the cost of tuition at a four-year public institution jumped 38% in the last decade. For the 2008–2009 academic year, the total average cost of a four-year public school was nearly \$20,000. Tuition increases have exceeded inflation and wage increases).

308. PROJECT ON STUDENT DEBT & NAT’L CTR. FOR EDUC. STATISTICS, QUICK FACTS ABOUT STUDENT DEBT 1 (2010), *available at* http://projectonstudentdebt.org/files/File/Debt_Facts_and_Sources.pdf.

309. INTERNAL REVENUE SERV., DEP’T OF TREASURY, PUBLICATION 970, TAX BENEFITS FOR EDUCATION (2009), *available at* <http://www.irs.gov/publications/p970>.

with these subsidies is that working mothers who do not have the ability to save³¹⁰ cannot benefit from these education savings techniques, and the credits are unavailable to upper income single mothers, who are treated as single under the phase-out rules.³¹¹ The student loan interest is a per return benefit and thus is unavailable to two-earner married couples, both of whom have student loans.³¹²

Health care is another major concern among working moms. Half of workers in the lowest-wage jobs and half of those in mid-range jobs, as well as a quarter of those in higher salary jobs, either had problems paying medical bills in a twelve-month period or were paying off accrued debt.³¹³ If one member of a family is uninsured and has an accident or costly medical treatment, the resulting medical bills can affect the entire family's economic stability.³¹⁴ A survey showed that more than 25% said that housing problems resulted from medical debt, including the inability to pay rent or mortgage, and the development of bad credit ratings.³¹⁵ Researchers recently found that the average out-of-pocket medical debt for those who filed for bankruptcy was \$11,854.³¹⁶ Significantly, 75.7% of those who filed for bankruptcy had health insurance coverage.³¹⁷ Furthermore, 54% of all bankruptcy filings were partly the result of medical expenses.³¹⁸ To help Americans afford health care, the federal government gives tax breaks for health-related savings and expenditures, e.g., the Health Savings Account, Medical Savings Accounts, Flexible Spending Arrangements, Health Reimbursement Arrangements, et cetera.³¹⁹ However, working mothers have difficulty saving under these

310. See *Health Savings Accounts (HSAs) and Consumer Driven Health Care: Cost Containment or Cost Shift?: Hearing Before the Subcomm. on Health of the H. Comm. on Ways and Means*, 110th Cong. 29 (2008) (statement of Judy Waxman, Vice President & Dir. of Health & Reproductive Rights, Nat'l Women's Law Ctr.) [hereinafter *Statement of Waxman*], available at <http://www.nwlc.org/pdf/HSAtestimonyJwaxman.pdf> (explaining women cannot afford Health Savings Accounts).

311. See I.R.C. § 25A(d)(2)(A) (2006).

312. SHURTZ, *supra* note 222, at 512.

313. Sara R. Collins et al., *Wages, Health Benefits, and Worker's Health*, COMMONWEALTH FUND ISSUE BRIEF, Oct. 2004, at 6.

314. COMM. ON THE CONSEQUENCES OF UNINSURANCE, INST. OF MED., NO. 3, HEALTH INSURANCE IS A FAMILY MATTER 3 (2002).

315. ROBERT W. SEIFERT, ACCESS PROJECT, HOMESICK: HOW MEDICAL DEBT UNDERMINES HOUSING SECURITY 1 (2005).

316. David U. Himmelstein et al., *Marketwatch: Injury and Illness as Contributors to Bankruptcy*, HEALTH AFFAIRS (Feb. 2, 2005), <http://content.healthaffairs.org/content/supp1/2005/01/28/hlthaff.w5.63.DC1>.

317. *Id.*

318. *Id.*

319. INTERNAL REVENUE SERV., DEP'T OF TREASURY, PUBLICATION 969, HEALTH SAVINGS ACCOUNTS AND OTHER TAX-FAVORED HEALTH PLANS (2009), available at <http://www.irs.gov/publications/p969/ar02.html>.

plans.³²⁰ The United States Congress recently passed a form of universal health care.³²¹ Unlike the single-payer system of Sweden and much of Europe, the United States' form of universal health care allows employees to keep their current employer-provided plans.

The second problem with the federal income tax base is that consumption items of the wealthy (such as primary homes and vacation home purchases)³²²—which are not available to many working mothers—are subsidized. Affordable housing is a significant concern of working mothers, yet U.S. housing (nontax) subsidies are inadequate.³²³ Families who pay more than 30% of their income toward housing have difficulties meeting the other necessities of life such as food, clothing, medical care, and transportation. These families are considered cost-burdened.³²⁴ Housing costs are particularly high in cities, and this has created housing challenges “not only for lower-income groups that traditionally face such hardships, . . . but also for teachers, nurses, firefighters, police officers, and other moderate-income workers.”³²⁵ “Eighty per cent of the 1,000 large and small American cities surveyed by the National League for Cities in 2007 reported that rising housing costs are putting a severe strain on families.”³²⁶ Census data shows “that the home ownership rate for families headed by women was almost 16 percent lower” than for other citizens.³²⁷ Unfortunately, the federal government uses multiple tax incentives for home-ownership,³²⁸ e.g., home mortgage interest deductions, home equity interest deductions, deductions for penalty for early payoff of mortgage, deductions for loan origination, and real estate taxes. However, these deductions are upside-down subsidies that favor high income

320. *Statement of Waxman*, *supra* note 310.

321. See Patient Protection and Affordable Care Act, Pub. L. 111-148 § 4107, 124 Stat. 119, 560–61 (2010) (codified as amended in scattered sections of U.S.C.). When parents are unable to afford the necessities for children, the government often provides a safety-net. Lance Freedman, Commentary, *America's Affordable Housing Crisis: A Contract Unfulfilled*, 92 AM. J. PUB. HEALTH 709, 710 (2002). School lunches, food stamps, and Medicaid, which provides health care, are all available. *Id.* The amount of direct government support flowing to the needy varies by each state within the United States.

322. I.R.C. § 163(h) (2006).

323. *Id.* The U.S. Department of Housing and Urban Development defines housing as “affordable” if the tenants or owners pay no more than 30% of their income on housing. *Affordable Housing*, U.S. DEP'T OF HOUSING & URBAN DEV., <http://www.hud.gov/offices/cpd/affordablehousing/index.cfm> (last visited June 10, 2011).

324. *Id.*

325. Tony Favro, *Affordable Housing Crisis Casts a Shadow over the American Dream*, CITY MAYORS SOC'Y (Jan. 20, 2007), http://www.citymayors.com/society/housing_usa.html.

326. *Id.*

327. ABRAMOVITZ & MORGEN, *supra* note 30, at 55.

328. *Id.* at 52.

taxpayers.³²⁹ Thus, working mothers that rent or have low incomes receive no benefit from these provisions.

Another itemized deduction that favors the high income taxpayer is the charitable deduction.³³⁰ The majority of taxpayers who take the standard deduction will receive no benefit from this. To the extent the charitable funds go to the things which working mothers and children need, then this deduction should remain. However, to the extent that art, music, and other charities are benefited, the deduction could be modified.

Lastly, the federal income tax favors certain investments that depend on excess disposable income or savings. Certain investments, such as those for municipalities, are tax-exempt.³³¹ Other investments, such as capital gains and dividends, are favorably taxed.³³² The estate tax was repealed in 2010 and after the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, taxpayers can transfer \$5 million tax free at death or during their life.³³³

The last general complaint about the bases of the various tax systems is that earnings are doubly or triply taxed. First, the federal income tax taxes earnings. Second, Social Security taxes earnings. Third, most states, and some localities, tax earnings. “[T]hree-fourths of families pay more in payroll taxes [i.e., social security] than income taxes.”³³⁴

b. Tax Rates

U.S. federal income taxes are slightly progressive—with rates up to 36.9%.³³⁵ In 2010, the personal and dependency exemption provided an inflation-adjusted exemption of \$3,650 and an inflation-adjusted standard deduction of \$5,700 for the single taxpayer, \$8,350 for the head of household, or \$11,400 for married couples.³³⁶ The Social Security rates, on the other hand are regressive, and there are no exemptions.³³⁷ The Social Security tax rate is flat on salary capped at a certain amount.³³⁸ Just recently, the United States adopted a system similar to that of Sweden—the Social Security base will now

329. *Id.* at 55.

330. I.R.C. § 170 (2006). *See also* ABRAMOVITZ & MORGEN, *supra* note 30, at 57.

331. *See* I.R.C. § 103.

332. ABRAMOVITZ & MORGEN, *supra* note 30, at 73.

333. Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. 111-314, 124 Stat. 3296 (codified as amended in scattered sections of U.S.C.).

334. *Id.* at 84.

335. I.R.C. § 1 (2006).

336. INTERNAL REV. SERV., IRS REV. PROC. 2008-66, at 11–12 (2008).

337. ABRAMOVITZ & MORGEN, *supra* note 30, at 77.

338. *Id.* The current cap is \$106,800. SOC. SEC. ADMIN., UPDATE 2011, SSA Pub. No. 05-10003 (2011), available at <http://ssa.gov/pubs/10003.html>.

include rents and other capital income for high-income taxpayers.³³⁹ Another facet of the U.S. income tax is the alternative minimum tax (AMT), which was employed to prevent significant tax liability avoidance through the use of exclusions, deductions, and credits.³⁴⁰ Unfortunately, the AMT can hurt lower-income taxpayers, especially those with children.³⁴¹

Capital income in the United States is taxed according to long-term and short-term capital gains.³⁴² Short-term capital gains include investments that have been held for a year or less³⁴³ and are taxed at the investor's ordinary income tax rate.³⁴⁴ Long-term capital gains include investments that have been held for over a year³⁴⁵ and are taxed favorably.³⁴⁶ Capital income also includes "qualified dividends."³⁴⁷ Accordingly, for 2008–2010, the tax rate on eligible dividends and long-term capital gains is 0% for those taxed at a rate below 25%.³⁴⁸ For others, the rate is 15%.³⁴⁹

All except seven states have an income tax and the state rates are much lower than the federal rates.³⁵⁰ Sometimes the state will exempt capital income, and other times the state will tax capital income.³⁵¹ Most states also have a sales tax. Although the rates that vary widely, they are generally considered regressive.³⁵² Currently no VAT exists at the federal level, but one is proposed.³⁵³

339. See Patient Protection and Affordable Care Act, Pub. L. 111-148 § 4107, 124 Stat. 119, 560–61 (2010) (codified as amended in scattered sections of U.S.C.).

340. ABRAMOVITZ & MORGEN, *supra* note 30, at 86.

341. *Id.* at 87.

342. I.R.C. § 1222 (2006).

343. *Id.* § 1222(1).

344. William Perez, *Capital Gains Holding Periods: Long Term and Short Term*, ABOUT.COM (Dec. 20, 2010), http://taxes.about.com/od/captialgains/a/CapitalGainsTax_2htm.

345. I.R.C. § 1222(3) (2006).

346. *Id.* § 1222.

347. *Id.* § 1(h)(3).

348. *Id.* § (h)(1)(B).

349. *Id.* § 1(h)(1)(C).

350. ROBERT P. MURPHY & JASON CLEMENS, *TAXIFORNIA: CALIFORNIA'S TAX SYSTEM, COMPARISONS TO OTHER STATES, AND THE PATH TO REFORM IN THE GOLDEN STATE*, PACIFIC RESEARCH INSTITUTE 34 tbl.4 (2010) (Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming).

351. Trevor, *Capital Gains Tax Rates-State by State*, THEREIBRAIN.COM BLOG (Oct. 18, 2007), <http://www.thereibrain.com/realestate-blog/2007/10/capital-gains-tax-rates-state-by-state>.

352. California has one of the highest rates with 8.25%. *Id.* See MURPHY & CLEMENS, *supra* note 350, at 51 tbl.7.

353. Cait Murphy, *VAT: Will the U.S. Adopt a Value-Added Tax?*, CBSNEWS.COM (Apr. 7, 2010, 12:04 PM), http://www.cbsnews.com/8301-503983_162-20001918-503983.html.

3. Tax Unit

The taxable unit in the United States under the federal income tax system is the married couple, although originally it was the individual.³⁵⁴ As it currently stands, the married couple filing jointly enjoys a different rate schedule, which provides broader brackets for lower rates than those imposed on heads of household and single taxpayers.³⁵⁵ However, when a working mother combines her income with a working husband, she incurs a “marriage penalty.”³⁵⁶ Thus, her marital status can impact her taxes.

The United States also has a tax category for heads of household (often single moms with children) with rates between that of single taxpayers and married couples.³⁵⁷ This category also gives those individuals a higher standard deduction than those filing as single.³⁵⁸ An individual can file as a head of household if he or she is unmarried, pay more than half the costs of keeping up a house, and has a qualifying person (such as a minor child) living with him or her.³⁵⁹ For example, under the 2010 federal income tax rates, a single taxpayer filing individually who has a taxable income of \$80,000 would owe \$16,188 in taxes, while a head of household with the same taxable income would owe \$14,854.³⁶⁰ Similarly, while a single taxpayer is eligible for a standard deduction of \$5,700 in 2010, a taxpayer filing as a head of household is allowed a standard deduction of \$8,350.³⁶¹

Scholars have criticized the joint filing system as perpetuating an outdated perception that the proper gender role of women is in the home, rather than in the workplace.³⁶² This economic inefficiency taxes the lower-earning spouse, typically the wife, at the same marginal rate of the higher earning spouse, thereby creating a disincentive for the wife to perform market labor.³⁶³ The taxable unit has also been criticized as discriminatory against two-earner couples,³⁶⁴ head of household taxpayers,³⁶⁵ singles,³⁶⁶ and gay and lesbian

354. Shurtz, *supra* note 70, at 497–98.

355. AULT ET AL., *supra* note 1, at 139.

356. Lawrence Zelenak, *Marriage and the Income Tax*, 67 S. CAL. L. REV. 339, 340 (1994).

357. AULT ET AL., *supra* note 1, at 139–40.

358. *Id.* at 144.

359. Black et al., *supra* note 37, at 1398.

360. I.R.S., 2010 TAX TABLE 86, available at <http://www.irs.gov/pub/irs-pdf/i1040tt.pdf?portlet=3>.

361. INTERNAL REV. SERV., IRS REV. PROC. 2008-66, at 11–12 (2008).

362. See, e.g., Blumberg, *supra* note 3, at 90 (citing Oliver Oldman & Ralph Temple, *Comparative Analysis of the Taxation of Married Persons*, 12 STAN. L. REV. 585, 601–02 (1960)).

363. Shurtz, *supra* note 70, at 499.

364. See MCCAFFERY, *supra* note 32, at 83.

365. See Black et al., *supra* note 37, at 1397.

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

couples,³⁶⁷ many of whom function in the same way as traditional families. Many scholars have thus called for reform in this area, most particularly the adoption of the individual unit,³⁶⁸ that has been adopted by both Sweden and Singapore.

II. LESSONS LEARNED: U.S. AGENDA FOR REFORM

What the earlier discussion illustrates is that many features of the current U.S. tax system should be modified to accommodate the interests of working mothers. Lessons can be learned from both Sweden and Singapore. For example, macro tax policy suggestions include using more direct subsidies, focusing more on efficiency, making the rate structure more progressive, modifying the tax base, and changing the taxable unit. The micro tax policies deal with the specific issues of concern to working moms, such as those for child care, health care, housing, and education.

A. *Lessons from Sweden: Direct Subsidies and a Focus on Equity*

The Swedish support model is ideal for working mothers. The Swedish system has widespread direct subsidies, such as those for child care and health care,³⁶⁹ that provide great services to all citizens, often with fees charged based on income levels.³⁷⁰ Furthermore, these universal services seem to be of uniformly high quality.³⁷¹ Sweden's tax system is based on principles of equity, which feature progressive tax rates and the individual unit.³⁷²

The advantages of direct subsidies over tax subsidies were touted by Stanley S. Surrey in his classic 1970 law review.³⁷³ He argues that direct subsidies are better than tax subsidies because they are more equitable, prevent windfalls, are economically efficient, and do not distort the base or rates.³⁷⁴ He asserts that tax incentives confuse and divide "authority in the legislative and administrative processes," make maintaining budgetary control difficult, cause "confusion in perceiving and setting national priorities, and [pose]

367. See Patricia A. Cain, *Taxing Lesbians*, 6 S. CAL. REV. L. & WOMEN'S STUD. 471 (1997).

368. See Pamela B. Gann, *Abandoning Marital Status as a Factor in Allocating Income Tax Burdens*, 59 TEX. L. REV. 1 (1980); Davis, *supra* note 65. Some have argued for the household. See, e.g., Frederick R. Schneider, *Which Tax Unit for the Federal Income Tax?*, 20 U. DAYTON L. REV. 93 (1994).

369. Dana Polk, *For Models of Universal Child Care Check out the (International) Neighbors*, CHILD. ADVOC., May/June 1997, available at http://www.4children.org/issues/1997/may-june/for_models_of_universal_child_care_check_out_the_international_neighbors.

370. *Id.*

371. See Dowd, *supra* note 4, at 594.

372. *Id.*

373. Surrey, *supra* note 35, at 737–38.

374. See *id.* at 719, 720, 725.

dangers to the tax structure itself.”³⁷⁵ A more recent law review article by Mary Heen compares direct subsidies with tax subsidies involving child care.³⁷⁶ She concludes that the tax system has serious administrative and equity problems and is generally inferior to direct subsidies for children.³⁷⁷

Direct subsidies already exist in the United States and generally work quite well. Social Security, Medicare, Medicaid, public education, and financial aid for higher education are all examples of direct subsidies.³⁷⁸ Social Security, for example, has drastically lowered the poverty rate among the elderly and “provides over 40 percent of the income of people 65 and older.”³⁷⁹ It was instrumental in reducing women’s poverty since women are more dependent than men on these benefits.³⁸⁰ Health care has recently become universal.³⁸¹ What the United States needs now is a universal preschool. This would support our mothers and children while serving the country’s needs to remain a competitive global leader.

B. Lessons from Singapore: An Efficient Tax System with Comprehensive Base and Care Subsidies

The tax system of Singapore also offers lessons for the United States. First, a tax system with a comprehensive base will work to provide adequate revenues even with low tax rates and large exemptions.³⁸² Second, a tax system need not be complicated to be effective.³⁸³ Third, calculation of the tax at the national level could result in large efficiencies.³⁸⁴ Fourth, subsidies can be used within the tax system to provide support for important care-giving functions.³⁸⁵ When combined with direct subsidies for quality health care,

375. *Id.* at 734.

376. See Mary L. Heen, *Reinventing Tax Expenditure Reform: Improving Program Oversight Under the Government Performance and Results Act*, 35 WAKE FOREST L. REV. 751, 761 (2000).

377. *Id.* at 814 (discussing direct subsidies in general).

378. *Id.* at 757 nn.18, 19.

379. Thomas N. Bethell, *Social Security: Where Do We Go From Here?*, AARP BULL. (July 1, 2010), available at http://www.aarp.org/work/social-security/info-07-2010/social_security_where_do_we_go_from_here.html. The poverty rate among the elderly has been reduced from 35% in 1960 to less than 10% today. *Id.*

380. See A. Barry Rand, *Protect Social Security*, AARP BULL. (July 1, 2010), available at http://www.aarp.org/work/social-security/info-07-2010/protect_social_security.html. In 2008, 48.4% of a woman’s (65 and older) retirement income came from Social Security. *Id.* This contrasts with only 33.7% for men. *Id.*

381. See Patient Protection and Affordable Care Act, Pub. L. 111-148 § 4107, 124 Stat. 119, 560–61 (2010) (codified as amended in scattered sections of U.S.C.).

382. See text accompanying notes 182–91.

383. See text accompanying notes 154–60.

384. See text accompanying notes 155–57.

385. See text accompanying notes 174–75.

child care, elder care, and education, such a system could serve as a model to emulate.

Unfortunately, Singapore does not provide universal subsidies for child or elder care. Instead, these care functions are largely provided only to higher income taxpayers through the tax codes various deduction provisions.³⁸⁶ The United States has already eliminated the deduction route for dependent care³⁸⁷ and has changed to the credit system to provide fairer benefits.

The Singapore state wants women to work in the marketplace. However it does not provide universal preschool, child care, or elder care. Additionally, there is wide disparity of income or wealth among the classes in Singapore, particularly between the guest workers and the residents.³⁸⁸ A similar model on a reduced scale exists and is thriving in the United States.³⁸⁹ Theoretically, the United States has minimum wage laws, Social Security laws, and other laws that might apply in this setting, and thus be distinguishable from that of Singapore. However, child care in the home in the United States is on a private, cash basis, and is unregulated.³⁹⁰

C. *Additional Macro Proposals*

Although it may not be politically feasible to adopt the same tax systems as Sweden or Singapore, the United States can nevertheless learn lessons from those countries on how to restructure their tax system to favor working mothers. Working women's lives would be made better by providing them with greater financial support³⁹¹ and directing to them a greater flow of wealth. The tax base, tax rates, and tax unit in the United States should all be examined and modified.

1. Tax Base

Several modifications in the tax base should be made to accommodate the interests of working mothers. First, since most of mothers' income comes in the form of earnings,³⁹² double (or triple) tax on such earnings should be reduced or eliminated.³⁹³ The Social Security system could be integrated into the income tax system or made fairer with an exemption, similar to that in the

386. See *supra* text accompanying notes 200–08.

387. See discussion *supra* Part I.C.2.

388. See *supra* note 12 and accompanying text.

389. See Mary Louise Fellows, *Rocking the Tax Code: A Case Study of Employment-Related Child-Care Expenditures*, 10 YALE J.L. & FEMINISM 307, 315 (1998).

390. See Marc Linder, *What Hath Zoe Baird Wrought? The New FICA Amendments on Domestic Service Employers*, 66 TAX NOTES 113, 113–15 (1995).

391. The tax code, however, can only deal with financial help. What women need is a dismantling of the sexual division of labor at home, and/or more direct subsidies from the state.

392. See *supra* note 304 and accompanying text.

393. See *supra* note 334 and accompanying text.

federal income tax system. Scholars Yin and Foreman have proposed providing an exemption of a certain amount of wages from the Social Security wages of poor workers, augmented by a refundable “family allowance,” much like the allowance provided under the Swedish system.³⁹⁴ Such a proposal would go a long way toward providing equity to working mothers, particularly single working moms. A better proposal may be to expand the Social Security base to include rents and other investment income of high income taxpayers, like that of the Swedish tax system. Lastly, to address regressive state taxing schemes, a refundable credit for low income taxpayers could be enacted.

Another important reform would be to broaden the federal income tax base by eliminating some of the hybrid savings features of the system.³⁹⁵ Provisions in the income tax system that favor savings, such as those for retirement, education, and health care should be eliminated or modified. Since most working mothers are not able to save,³⁹⁶ these tax incentives do not favor them. The budgeted dollar amounts for these saving programs—the Section 529 plan, the Coverdell, savings bond interest, et cetera,³⁹⁷—could then be used for direct subsidies or pay-as-you-go tax measures that have a refundable component. For example, the code is full of tax subsidies that favor college, yet until recently the pay-as-you go techniques, such as the Hope Scholarship Credit, the Lifetime Learning Credit or the Tuition and Fees Deduction, did not have a refundable feature. The American Opportunity Credit has a refundable feature,³⁹⁸ however, higher-income single mothers are ineligible for the benefit.³⁹⁹ Those mothers also would not be likely to qualify for the financial aid subsidies. The post-college loan interest benefit may also not be available to them.⁴⁰⁰

Similarly, the retirement tax savings provisions provide the largest expenditure item in the tax expenditure budget.⁴⁰¹ Yet, many women with their lower wages and increased consumption expenditures (due to work and child related expenses) are not able to take advantage of some of the “catch-up” IRA deduction provisions that were intended for their benefit.⁴⁰² Although

394. See George K. Yin & Jonathan Barry Forman, *Redesigning the Earned Income Tax Credit Program to Provide More Effective Assistance for the Working Poor*, 59 TAX NOTES 951, 957–60 (1993).

395. See Boris I. Bittker, *A “Comprehensive Tax Base” as a Goal of Income Tax Reform*, 80 HARV. L. REV. 925 (1967).

396. Min Zhan, *Savings Outcomes of Single Mothers in Individual Development Accounts 1* (Washington Univ. Ctr. for Soc. Dev., Working Paper No. 03-07, 2003).

397. See discussion *supra* Part I.C.2.a.

398. Black et al., *supra* note 37, at 1401.

399. *Id.*

400. *Id.*

401. See *supra* note 300 and accompanying text.

402. ABRAMOVITZ & MORGEN, *supra* note 30, at 47–49.

Social Security may be available to working women (and studies show they are more dependent on this income than men) these subsidies are inadequate, due to women's lower labor wages. Therefore, the budgeted dollar amounts from these savings programs could be redirected to increase the minimum Social Security entitlement. Similar discrimination results from the health savings accounts.⁴⁰³ Here, women may not be able to save and may not be adequately covered under an employer plan.

In all of these circumstances, working mothers would be better served if the savings provisions were modified or eliminated—and the saved funds directed to refundable pay-as-you-go tax benefits or direct subsidies.

A third proposal would be to tax both investment and capital income the same as earned income. Under the Haig-Simons definition of income, income is consumption plus savings.⁴⁰⁴ The definition does not indicate that savings should be taxed more favorably.⁴⁰⁵ Working women who have little savings do not benefit when savings are exempt or treated favorably under the income tax system.⁴⁰⁶ Therefore, savings, such as dividends and capital gains, should be taxed the same as earned income. This proposal would serve horizontal equity and simplicity. The supply side economic “trickle down” theory is not persuasive.⁴⁰⁷ In this recessionary economy, cash flows are going outside the country, and the theory that the rich will take the risks to create wealth for others has changed. Consumption, however, is local. Therefore, the demand theory that consumption drives factory orders, and thus the economy, is the better view.⁴⁰⁸

Lastly, certain consumption expenses of the wealthy should not be subsidized in the federal income tax system. Rather, consumption expenses of working mothers should be favored. For example, no deduction should be allowed for the mortgage interest on a vacation home. If most working mothers rent, then all mortgage interest deductions should be eliminated—or a floor should be placed on these, similar to that under Section 67.⁴⁰⁹

403. C. Eugene Steuerle, *Designing A Nondiscriminatory Tax Credit*, HEALTH AFF., Summer 1995, at 276.

404. See JOSEPH BANKMAN ET AL., FEDERAL INCOME TAX: EXAMPLES & EXPLANATIONS 38 (5th ed. 2008).

405. *Id.*

406. See *supra* notes 30–31 and accompanying text.

407. See Mehrun Etebari, *Trickle Down Economics: Four Reasons Why it Just Doesn't Work*, UNITED FOR A FAIR ECON. (July 17, 2003), <http://www.faireconomy.org/research/TrickleDown.html>.

408. David Brin, *A Primer on Supply-Side vs Demand-Side Economics*, OPEN SALON BLOG (Feb. 19, 2010, 7:28 PM), http://open.salon.com/blog/david_brin/2010/02/19/a_primer_on_supply-side_vs_demand-side_economics (arguing for demand side economics).

409. See I.R.C. § 67 (2006) (disallowing certain itemized deduction equal to 2% of the taxpayer's adjusted gross income).

Alternatively, a refundable rent credit should be provided when direct subsidies are inadequate. Similar to the analysis above, deductions for consumption items, such as rent, should be turned into refundable credits.

Consumption items involving necessities for children and work related expenditures should be deducted under the federal income tax system. Earlier tax law allowed for a two-earner deduction for work related expenses.⁴¹⁰ Both Sweden and Singapore have such a provision.⁴¹¹ A more equitable tax subsidy would be a refundable credit.

Of course, tax base issues do not just revolve around the Social Security and federal income tax systems. Any sales tax (or a VAT, if passed) should exempt the purchase of goods and services most common to the working mom. In addition, any new tax initiatives, such as the VAT and carbon tax, should be evaluated before enactment for its impact on working women and their children.

2. Tax Rates

The Singapore taxing system illustrates that the tax rates per se might not be as important as the base, the exemption levels, or the taxable unit to the welfare of working women. Where the money is spent is of key importance. If Social Security is integrated with the income tax, then rates would have to rise dramatically; however, instituting a comprehensive tax base and taxing capital gains and dividends like ordinary income would reduce the rates. If exemption levels are high, though, then rates will also need to be high.

Scholars in the field have examined the progressive rates under the federal income tax system from a feminist point of view.⁴¹² To the extent that working mothers fall in lower income brackets, either because of their choice of job, their low wages, or their marital situation,⁴¹³ a more progressive tax system can result in their benefit, if redistribution results from the revenue. To the extent that state tax systems are regressive and thus impact working mothers adversely, then a progressive federal income tax is fairer to them.

3. Tax Unit

Various scholars have argued that the marital unit should be abandoned in favor of the individual. Some attack joint filing on the ground that it creates a

410. Leslie A. Whittington & James Alm, *Tax Reductions, Tax Changes, and the Marriage Penalty*, 54 NAT'L TAX J. 455, 458 (2001).

411. See *supra* notes 139–41, 208 and accompanying text.

412. See Kornhauser, *supra* note 236. See also Marjorie E. Kornhauser, *A Taxing Woman: The Relationship of Feminist Scholarship to Tax*, 6 CAL. REV. L. & WOMEN'S STUD. 301, 317 (1996) (discussing how her article came to be considered the "feminist progressivity" article).

413. Not only is marriage important, but divorce. Women who are lucky enough to be connected to a payer husband with resources can reap the benefit of alimony *and* child support.

disincentive for wives to perform market work.⁴¹⁴ Others have emphasized that two-earner couples incur more work-related expenses than one earner couples and do not receive the value of non-taxed imputed services that single earner couples receive.⁴¹⁵ Some commentators think joint filing violates “marriage neutrality,” thus discouraging some taxpayers from marrying,⁴¹⁶ while others do not see marriage as an institution to be emulated and point out the discrimination against cohabiting couples.⁴¹⁷ Lastly, some scholars have attacked the joint filing assumption that couples act as a unitary economic entity, pooling their resources for joint purposes.⁴¹⁸

Whatever the reasons, including complexity and inequity,⁴¹⁹ the marital unit should be abandoned. Sweden, Singapore, and many other countries have demonstrated how a system using the individual unit can work fairly and effectively.⁴²⁰

It is possible that politically, the unit in America will never change. Therefore, the inequity—although not the complexity—can be resolved by “second best” measures.⁴²¹ First, married couples could be allowed to file separately and be treated as single. Heads of household taxpayers could be taxed as married, particularly with respect to the limitation rules. For single working moms, the eligibility income rules and phase-outs should be doubled. For example, the per child tax credit rules for head of household and married couples should be the same. Single parents do not have the value of the imputed income of the one-earner couples and have more expenses for their children than married parents. Therefore they should have the same benefit as one-earner couples throughout the code. Similarly, the education benefits—Coverdell, American Opportunity Credit, and student loan interest deduction—should have the same income level for single parents and married couples.

414. MCCAFFERY, *supra* note 32, at 2; Blumberg, *supra* note 3, at 49; Harvey S. Rosen, *Is It Time to Abandon Joint Filing?*, 30 NAT'L TAX J. 423, 427 (1977).

415. Gann, *supra* note 368, at 20.

416. Boris I. Bittker, *Federal Income Taxation and the Family*, 27 STAN. L. REV. 1389, 1395–97 (1975).

417. Patricia Cain, *Same-Sex Couples and the Federal Tax Laws*, 1 LAW & SEXUALITY 97 (1991); Bruce Wolk, *Federal Tax Consequences of Wealth Transfers between Unmarried Cohabitants*, 27 UCLA L. REV. 1240 (1980).

418. Majorie E. Kornhauser, *Love, Money, and the IRS: Family, Income-Sharing and the Joint Income Tax Return*, 45 HASTINGS L.J. 63, 96 (1993).

419. *See generally* Black et al., *supra* note 37; Kahng, *supra* note 366.

420. *See, e.g.*, Dulude, *supra* note 2.

421. Originally the “second best” was used in welfare economics to indicate that when market failures exist and Pareto optimality cannot be attained, other measures might be necessary. *See* R.G. Lipsey & Kelvin Lancaster, *The General Theory of the Second Best*, 24 REV. ECON. STUD. 11 (1959). Now it is used to refer to solutions to problems that may not be the best but could still help solve the issue.

D. Micro Proposals

Although direct subsidies are best, the U.S. system tends to favor tax incentives. There are a series of specific or micro tax provisions that could be enacted to benefit working moms. For example, if universal preschool cannot be provided, then a more liberal credit for child care should be enacted. Similarly, a credit for the negative income tax due to second shift work could be given. If housing and health care are not adequately provided through direct subsidies, then refundable credits should be enacted. Lastly, a welfare mom's working opportunity credit should be enacted to allow for a working mom's expenses of employing a welfare mom, but only if she allows the welfare mom's children to be taken care of in the employer's house. Lastly, the earned income credit could be increased or a family allowance provided.

CONCLUSION

Examining the tax culture of Sweden, Singapore, and the United States illustrates how that culture can impact working mothers welfare. Sweden should be praised for the high value it places on women's equality in the marketplace and at home. With its extensive universal child care system and a liberal maternity and paternity leave policy, it is a model for the "state support" system for working mothers. Singapore has a less extensive support system than Sweden, but it does provide excellent housing, health care, and education benefits. The Singapore system is slightly less socialist than the American system, since there is no entitlement for unemployment compensation or Social Security retirement benefits. Like the United States, it adopts a "responsibility" model for child rearing, but unlike in the states, that caregiving is done primarily by young immigrant women workers with few rights. However, one in seven households have such a maid, which enables working mothers to have more leisure time.

The United States, which was founded on freedom and equality, appears to advocate independence of its women; however, important tax provisions put an unfair burden on working mothers in bearing the responsibility of rearing and educating children. Numerous tax policy changes could be made to truly support its mothers in the workplace and at home. These would include expanding the income tax base, making the system more progressive, adopting the individual unit, and adopting more direct subsidies, such as those for child care or preschool.