

THE FAULTY FOUNDATIONS OF THE TAX CODE:

Gender and Racial Bias in Our Tax Laws

AT A GLANCE: THE FAULTY FOUNDATIONS OF THE TAX CODE

- The tax code is an important tool to fight inequality, and yet is plagued with provisions that reflect outdated, and in some cases, biased assumptions about family structure, marriage, participation in the paid workforce, caregiving, and wealth.
- Raising awareness of these underlying biases and designing tools to dismantle them is an important first step towards equitable tax reform.



The federal tax code sets the rules that shape our economy, reflecting and perpetuating notions of who and what is valued. Unsurprisingly, those rules are not gender- or race-neutral.

- **The tax code was largely written by a small group of privileged white men – and therefore reflects their experiences, values, and worldview.** While tax policies have changed over time, many of the biases embedded in the tax code remain – and more have been added.
- **Even fewer families today fit the “breadwinner husband and caregiver wife with 2.5 children” model that was held up as the norm in 1939 when the modern tax code was written.** Now, families in this country are more diverse than ever; women in general and women with children are more likely to be in the paid workforce; and people are less likely to be married. But our tax code doesn't reflect 21st century realities for many families.
 - o For example, couples in which one spouse earns most of the income face a lower joint tax rate than they would face if each spouse filed as single. This is called a “marriage bonus.” However, couples in which the spouses earn equal incomes don't receive a marriage bonus.
 - o This, along with the tax code's inequitable provisions to help workers access and afford the child care they need to work, creates additional tax policy hurdles for women's entry into the formal labor force.
- **Other provisions of the tax code are written in ways that don't take into consideration the inequities faced by women, people of color, and other marginalized groups.** For example:
 - o Workers do not need to pay tax if they receive worker's compensation awards for physical injuries in the workplace but must pay taxes on compensatory damage awards for discrimination—which affects women, people of color, and people with disabilities more than white men.

- o Tax laws offer generous business expense deductions, and especially generous tax breaks for capital-intensive businesses. Women are less likely than men to own their own business, making these benefits generally less available. When they do, women tend to own service-oriented firms, which receive little support from tax laws that preference capital-intensive industries.
 - o The tax code offers various tax breaks for savings in the form of preferential tax treatment for investments. Men hold more wealth, are paid more, and are better positioned to save and invest compared to women. Thus, the majority of tax breaks for savings go to men.
 - o In addition, disproportionate Internal Revenue Service (IRS) audits of low-income households and communities of color claiming the Earned Income Tax Credit (EITC) raises deep concerns, especially compared to the shockingly low audit rates for higher-income households and others who are responsible for billions of dollars of unpaid taxes in this country every year.
- **We need to stop the tax code from perpetuating and exacerbating structural race and gender inequality.** This requires a top-to-bottom review of the tax code, and there are steps we can take to lay the groundwork for that.
 - o First, we need better tax data that takes taxpayers’ race, gender, and other aspects of their identities into account.
 - o Second, we need tools that use this data to hold policymakers accountable for writing a tax code that rectifies the failure to recognize racial and gender biases embedded in the law and ensures a tax code and an economy that work for all of us.
 - o In the meantime, we need to make sure that tax laws are equitably and effectively enforced, both by dramatically increasing IRS funding and by examining policies and practices for audits and other enforcement actions.

It is time for us to realize the tax code’s potential as a tool for racial and gender equity. We can harness the power of the women’s movement to ensure that tax justice is gender justice is racial justice.



The full report, “The Faulty Foundations of the Tax Code: Gender and Racial Bias in Our Tax Laws,” two related reports, and an executive summary are available at <https://nwlc.org/resources/gender-and-the-tax-code/>.