



**NATIONAL
WOMEN'S
LAW CENTER**

Justice for Her. Justice for All.



TAX JUSTICE IS GENDER JUSTICE:
Harnessing the Power of the Tax Code for
Gender and Racial Equity

National Women's Law Center *in partnership with*
Groundwork Collaborative, Roosevelt Institute, and
Georgetown Center on Poverty and Inequality

EXECUTIVE SUMMARY
APRIL 2022

ACKNOWLEDGEMENTS

AUTHORS

Executive Summary

Melissa Boteach & Amy Matsui, *National Women's Law Center*

1 THE FAULTY FOUNDATIONS OF THE TAX CODE

Ariel Jurow Kleiman, *University of San Diego School of Law*

Amy Matsui, *National Women's Law Center*

Estelle Mitchell, *National Women's Law Center*

2 RECKONING WITH THE HIDDEN RULES OF GENDER IN THE TAX CODE

Katy Milani, *Roosevelt Institute*

Melissa Boteach, *National Women's Law Center*

Steph Sterling, *Roosevelt Institute*

Sarah Hassmer, *National Women's Law Center*

3 A TAX CODE FOR THE REST OF US

Melissa Boteach, *National Women's Law Center*

Amy Matsui, *National Women's Law Center*

Indivar Dutta-Gupta, *Georgetown Center on Poverty and Inequality*

Funke Aderonmu, *Georgetown Center on Poverty and Inequality*

Kali Grant, *Georgetown Center on Poverty and Inequality*

Rachel Black, *Jain Family Institute*

4 ADVANCING GENDER AND RACIAL EQUITY BY TAXING WEALTH

Amy Matsui, *National Women's Law Center*

Kathryn Menefee, *National Women's Law Center*

Amy Royce, *National Women's Law Center*

DESIGN & PRODUCTION

Andres de la Roche, *ADELAROCHE DESIGNS*

The authors thank Nell Abernathy, Alice Abreu, Joanna A. Ain, Kate Bahn, Jeremy Bearer-Friend, Dorothy Brown, Natalie Cooper, Bridget Crawford, George Fenton, Jess Forden, Andrea Flynn, Shawn Fremstad, Jessica Fulton, Ignacio Gonzalez, Kali Grant, Darrick Hamilton, Seth Hanlon, Jeffrey Hayes, Mark Huelsman, Chye-Ching Huang, Anthony Infanti, Taylor Jo "TJ" Isenberg, Samantha Jacoby, Janelle Jones, David Kamin, Greg Leiserson, Michael Linden, Nico Lusiani, Elaine Maag, Rakeen Mabud, Sapna Mehta, David Neville, Emanuel Nieves, Nina Olson, Anne Price, Maura Quint, Kitty Richards, Jean Ross, Brakeyshia Samms, Jessica Schieder, Stephanie Sterling, Janet Stotsky, Jasmine Tucker, Jackie Vimo, Meg Wiehe, Vanessa Williamson, and Valerie Wilson for their invaluable and smart feedback.* The authors also thank Hilary Woodward for her copy editing of all the reports.*

This project would not have been possible without the generous support of Groundwork Collaborative, The JPB Foundation, the Bernard and Anne Spitzer Charitable Trust, and the Wellspring Philanthropic Fund.

DISCLAIMER

Text, citations, and data are current as of the date of publication. This report does not constitute legal or tax advice; individuals and organizations should consult with counsel related to specific tax matters.

*Inclusion in the acknowledgement section does not indicate endorsement of the content in this executive summary or the accompanying reports.



Four interrelated reports examine the federal tax code with a focus on gender and racial equity, as well as explore policies to make the tax code work for all of us.

EXECUTIVE SUMMARY

The tax code's primary purpose is to collect revenue, which, in turn, supports public investments in our shared national priorities. And yet, the power of the tax code goes much further: it rewards and incentivizes behavior by individuals, families, businesses, and government systems. It favors certain lifestyles and household structures.

The rules it sets can mitigate or exacerbate economic and political inequality. In short, the tax code reflects and enshrines a vision of society. Accordingly, this set of reports argues that it is incumbent upon us to harness the tax code's full potential so that the society it reflects is one that is rooted in gender and racial equity.

It is difficult to overstate the far-reaching consequences of our tax code for our economy writ large. The economy is not a random and uncontrollable force, nor is its success solely determined by the performance of hedge funds or the share price of stocks. We – everyday people – are the economy: our work and innovation determine its productivity, and our ability to purchase goods and services determines its growth. And women and people of color – as breadwinners, caregivers, consumers, and investors – are central drivers of its success. It follows then, that when the people who have been most historically marginalized, including women of color, are doing well – when they are paid a living wage, able to invest and build wealth, and able to provide a healthy and quality life for themselves, their families, and their communities – it's a sign that the economy is working well for everyone.

Yet in today's economy, decades of choices made by lawmakers and parallel patterns of private discrimination have conspired to push the most marginalized women into poorly paid jobs and lock them out of wealth-building opportunities. As it stands, the tax code entrenches and rewards advantages conferred upon a small group of mostly white men at the top at the expense of women and families of color. The consequences of these policy decisions became devastatingly clear during the pandemic. Because our tax code plays a robust role in shaping the economy, it is critical to examine how it mitigates, sustains, or exacerbates those disparities – and how it can be used to its full potential to help dismantle them going forward.

Nowhere in today's tax code does it explicitly say that women shall be treated differently than men, or families of color treated differently than white families. But while the language of our tax laws may be neutral on its face, in many instances, its impact disadvantages women and people of color in practice. This reality has far-reaching and important consequences for women's economic security, especially that of low-income women and women of color.

THE REPORTS

To that end, the National Women’s Law Center published three interrelated reports in 2019 – with our partners at Groundwork Collaborative, the Roosevelt Institute, and the Georgetown Center on Poverty and Inequality – and published a fourth report in 2022.

These reports examine the federal tax code with a focus on gender and racial equity, as well as explore policies to make the tax code work for all of us.

1

THE FAULTY FOUNDATIONS OF THE TAX CODE



2

RECKONING WITH THE HIDDEN RULES OF GENDER IN THE TAX CODE



3

A TAX CODE FOR THE REST OF US



ADVANCING GENDER AND RACIAL EQUITY BY TAXING WEALTH



1

THE FAULTY FOUNDATIONS OF THE TAX CODE

The tax code is an important tool to fight inequality, and yet is simultaneously plagued with provisions that reflect outdated and, in some cases, biased, assumptions about family structures, marriage, participation in the paid workforce, caregiving, and wealth.

The Faulty Foundations of the Tax Code: Gender and Racial Bias in Our Tax Laws, coauthored with Professor Ariel Jurow Kleiman (University of San Diego School of Law), examines inaccurate assumptions and gender and

racial biases embedded in the U.S. tax code. It highlights tax code provisions that reflect and exacerbate gender disparities, with particular attention to provisions that disadvantage low-income women, women of color, LGBTQ

people, people with disabilities, and immigrants. Examined policies include the joint filing of spousal income, treatment of informal caregiving, incentives for business formation and wealth accumulation, and tax enforcement patterns. Although perhaps facially neutral, many of the policies examined herein likely provide disproportionate benefit to men, may heighten pressure for women to leave the formal labor market, and reflect biased assumptions about gender, race, and family structure. Raising awareness of these underlying biases is a vital first step on the path to equitable tax reform, but awareness alone is not enough. Ensuring a democratic, mindful policymaking process matters as well. To that end, rather than proposing specific tax code

revisions, this report offers recommendations for better data and analysis so that policymakers, advocates, and the public can fully understand the impact of the current tax code and proposed tax policies. Proposals include to improve tax data and enforcement data by considering outcomes by gender, race, and other characteristics; inclusive budgeting; and equity impact statements for legislative proposals. Access to this data and impact analysis will provide policymakers with better tools – and the public with more information – to design a tax code that is more equitable, accountable, and inclusive.

2 RECKONING WITH THE HIDDEN RULES OF GENDER IN THE TAX CODE

The tax code helps set the rules for how our economy works and how wealth and power are distributed. Low taxes on the wealthy and corporations result in fewer revenues, which lead policymakers to constrain investments in programs and benefits important to women. A powerful but lesser-known effect is how these low taxes also incent or enable behaviors that have negative downstream effects on women’s economic well-being, stability, and opportunity.

Reckoning With the Hidden Rules of Gender in the Tax Code: How Low Taxes on Corporations and the Wealthy Impact Women’s Economic Opportunity and Security,

written in collaboration with The Roosevelt Institute, discusses how low taxes for the wealthy and corporations have played a role in enabling – and in some instances encouraging – those with the highest incomes and the most capital to accumulate outsized wealth and power in our economy. Centuries of discrimination and subjugation of women and people of color interact today with widening economic inequality such that white, non-Hispanic men are disproportionately represented among the wealthiest households, while labor and economic contributions from women of color are consistently undervalued. Power and wealth beget power and wealth, and accordingly, an agenda to advance racial and gender justice must reckon with these rules – including provisions in our tax code – that perpetuate and enable these inequities.

This report describes several substantial ways that low taxes for the wealthy have failed to deliver on the promise of widespread prosperity, have failed low-income women and families, and have contributed to or exacerbated the compounding economic effects of gender inequality. We do this by showing how the following tax policies negatively impact low-income women and their families: the ongoing erosion of taxes on intergenerational wealth transfers, the code’s preferential treatment of capital over income, the reduction of effective rates on the highest income earners, treatment of pass-through income, and the tax code’s preferential treatment of debt. The report then offers a set of reforms to better leverage the tax code to advance gender and racial equity.

3 A TAX CODE FOR THE REST OF US

While the U.S. income tax system is progressive overall, many aspects of the tax code reward wealth-building by the already-wealthy and exclude low- and moderate-income families. Given the historical discrimination and ongoing structural barriers that have locked women and people of color out of opportunities for wealth-building, such tax provisions exacerbate economic inequality and amplify gender and racial inequities.

A Tax Code for the Rest of Us: A Framework & Recommendations for Advancing Gender & Racial Equity Through Tax Credits, written in collaboration with the Georgetown Center on Poverty and Inequality, offers a framework for building on the success of the Earned Income Tax Credit (EITC) and the refundable portion of the Child Tax Credit (CTC) in boosting low- and moderate-income families' economic security and increasing gender and racial equity. It addresses the question: how can our tax code build on this success to better dismantle structural barriers that impede economic security and wealth-building for women and people of color?

This report examines our system of existing individual income tax subsidies and complementary direct spending

programs that seek to advance policy goals across several categories, including housing, caregiving, transportation, and higher education. It finds that low-income families, women, and people of color are underserved by both direct spending and tax subsidies due to insufficient revenues to invest in programs supporting economic opportunity, as well as the design of many tax provisions that do not reflect the needs and preferences of families struggling to make ends meet. It then discusses some limitations and benefits of refundable tax credits to help fill the resulting gap, and argues that the tax code can and should do more to advance equity, economic mobility, and opportunity for all. It ultimately proposes a framework to help policymakers, advocates, and the public evaluate when and how refundable tax credits can be in service of that goal.





4

ADVANCING GENDER AND RACIAL EQUITY BY TAXING WEALTH

The tax code encourages the wealthy to hoard their wealth, shields such wealth from taxation, and enables its transfer across generations. By doing so, the tax code further concentrates wealth in the hands of the privileged few, perpetuates racial and gender wealth gaps, and deprives us of revenues that could be put toward public investments that benefit women and people of color.

Advancing Gender and Racial Equity By Taxing Wealth

examines the tax treatment of wealth as a gender, racial, and economic justice issue. Employment discrimination, along with countless other current and historical discriminatory policies, means that women and people of color are less able to access and accumulate wealth. In contrast, the wealth of those at the top continues to grow at the expense of the economic security of women and people of color. And largely due to the quiet but relentless efforts of the ultra-rich to influence politics and public policy, the tax code increasingly encourages and rewards extreme wealth and exacerbates the concentration of wealth among a small number of predominantly white men.

This report describes how current tax policies contribute to racial and gender wealth gaps, and why outsized wealth concentrated in the hands of an elite few harms women of color, women overall, and people of color. The report also describes proposals to tax wealth more equitably, including taxing income from wealth like income from labor, taxing wealth directly through a wealth tax, and taxing intergenerational transfers of wealth. Taken comprehensively, these proposals would curb excessive wealth, reduce gender and racial wealth disparities, and increase equity in the tax system. Policymakers should specifically evaluate these proposed changes to assess whether they would increase racial and gender equity.



A WAY FORWARD

In short, the tax code is not race- or gender-neutral. The racial, gender, and other disparities created or exacerbated by provisions of the tax code are deeply troubling, but also unsurprising.

Because tax laws have been shaped for most of our nation's history by a small number of powerful elites, who have been largely white, male, and wealthy, tax laws largely reflect their worldview, values, biases, and experiences. The result is a tax code that does not fulfill its potential to advance racial and gender equity, and is riddled with provisions that instead grow the wealth and power of the elite who wrote it.

However, there is good news: To the extent that policy created certain inequities in the tax code, policy has the potential to remedy them. The Progressive movement of the early 20th-century, in response to the massive concentration of wealth in the hands of a powerful few during the Gilded Age, mobilized to ratify the 16th Amendment to the U.S. Constitution. This amendment authorized an income tax system whose redistributive impact (particularly, through establishing progressive rates) is now well-accepted.

Because of the work of the early 20th-century Progressive movement, the overall federal tax code today is progressive. However, the Progressive movement at that time failed to grapple with the still-fresh legacy of slavery, the marginalization of women, and the ongoing discrimination and subjugation of people of color and women – still unfinished work today.

Today's social movements must build on the success of our predecessors and tackle discrimination and the oppression of historically marginalized people.

And while today's income tax and marginal rates – accompanied by refundable credits like the EITC and CTC – make our federal tax code fairer and more equitable than it was a century ago, the progressivity of the income tax has been undermined by deductions, exemptions, and nonrefundable credits that disproportionately favor the wealthy. At the very top, billionaires often pay low effective tax rates, with much of the wealth from which they unquestionably derive economic benefit going untaxed altogether. Meanwhile, recent changes to other parts of the tax code – such as corporate tax rates and the estate tax – have weakened the ability of the progressive income tax to check extreme power and wealth, allowing dynastic wealth and its associated political power to continue across generations.

Today's social movements must not only build on the success of our predecessors, but also tackle the unfinished work of reckoning with centuries of systemic discrimination and oppression on the basis of gender, race, and other historically marginalized identities. The present-day bias in our tax code cannot be divorced from that history. These reports aim to provide the research and policy to inform and inspire collective action to similarly build the power to create a tax code that works for *all* of us.

WHAT IS TAX JUSTICE?

PRINCIPLES FOR A STRONG AND EQUITABLE TAX CODE

We believe that the tax code can live up to its promise as a progressive economic system and serve as a tool for equity, providing economic support and access to opportunity for all of us – rather than a wealth-building mechanism for the privileged few.

IN PARTICULAR, WE BELIEVE THAT THE TAX CODE SHOULD BE:

SUFFICIENT

Raising enough revenue to support national needs and equitable investments in priorities such as physical and social infrastructure, including education, health care, caregiving, and the environment.

JUST

Consistent with its historic and well-established redistributive role, reducing inequality overall and acting as a check on extreme wealth and the concentration of political and economic power that undermines our democracy, rather than rewarding and incentivizing behaviors by wealthy individuals and corporations that exacerbate poverty and inequality.

EQUITABLE

Supporting economic security and opportunity for all, but with particular attention to reducing rather than exacerbating historical and current inequities for marginalized communities and families, including women, people with low incomes, people of color, immigrants, LGBTQ people, and people with disabilities.

INCLUSIVE

Recognizing workers and families as they exist in reality, not based on embedded gender and racial biases and assumptions that typical families consist of – or should consist of – a married male breadwinner and female homemaker and their children.

SIMPLE

Making it easy for everyday taxpayers to comply with the tax code without the assistance of paid tax preparers, and minimizing administrative costs and burdens, especially for low- and moderate-income families.

FAIRLY ENFORCED

Funding adequately the Internal Revenue Service (IRS), instituting robust third-party reporting requirements for business and investment transactions, and better supporting and targeting enforcement to ensure that low-income tax filers do not bear a disproportionate risk of audits and enforcement actions compared to higher-income tax filers.

TRANSPARENT

Enabling the public to easily understand the impact of tax policies on families, women, people of color, and other historically disadvantaged groups, while also providing the public, researchers, and advocates the ability to measure and analyze tax policy and its effects, especially through improved data collection, analysis, and appropriate publication.



CONCLUSION

The tax code is one of the most important tools to shape our economy and fund our collective priorities.

Just as in the past, reforming it to live up to these principles will require a social movement that does not rest until our tax laws live up to their potential to create greater economic opportunity for all – this time with an intentional focus on racial and gender equity. These reports do not offer a comprehensive review of the elements of the tax code that have gender and racial impacts, nor do they set out a detailed and comprehensive suite of policy solutions.

But they are an effort to make transparent the role the tax code plays in furthering or mitigating entrenched inequities, and to invite policymakers, the public, and the women’s movement in particular to engage with tax policy. The analysis, frameworks, and ideas we offer in these reports show why tax justice is furthered by centering gender and racial equity, which, in turn, supports a strong, healthy economy for all of us.

These reports aim to provide
the research and policy
to inform and inspire
collective action to similarly
build the power **to create a**
tax code that works for all of us.