SPECIAL REPORT

THE EFFECT OF EGTRRA ON MARRIAGE TAX PENALTIES AND BONUSES

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This article analyzes the effect of EGTRRA on marriage tax penalties and bonuses. The analysis suggests that EGTRRA eliminates marriage tax penalties for many childless two-earner married couples. However, EGTRRA generally reduces these penalties only partially for two-earner couples with children because it addresses just a few of the many federal income tax components that contribute to them. One-earner couples typically have larger marriage tax bonuses after EGTRRA. In some situations, there are increased penalties or decreased bonuses, and this is often due to the alternative minimum tax. According to Hulse, one objective of EGTRRA was to mitigate marriage tax penalties, but the results here suggest only modest success in achieving it.

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Marriage tax penalties arise when the taxes paid by a married couple are greater than their aggregate taxes if they were not married. These penalties have been a feature of the federal income tax for several decades, and they have been a continuing source of concern to congressional members of both parties.[1] Two-earner couples typically incur marriage tax penalties, but marriage tax bonuses typically exist instead for one-earner couples, when taxes are lower as a result of marriage. Marriage tax bonuses have received much less political attention than marriage tax penalties.

The Economic Growth and Tax Relief Reconciliation Act of 2001 (hereafter EGTRRA) changed many aspects of the federal income tax, and it included some provisions to address marriage tax penalties.[2] However, it is unclear to what extent EGTRRA mitigated them. The federal income tax is complex, with many components whose effect on a married couple can differ from their effect on a similar pair of unmarried individuals. EGTRRA changed some of these components to address marriage tax penalties, but left other ones either unchanged or changed in ways that do not directly address these penalties. In addition, the same tax law provisions that contribute to marriage tax penalties in some circumstances often contribute to marriage tax bonuses in other circumstances, so it is also of interest to examine the extent to which EGTRRA affected these bonuses.

This article analyzes the effect of EGTRRA on marriage tax penalties and bonuses. For various sets of family and economic circumstances, the amount of marriage tax penalty or bonus for 2002 is calculated first as if EGTRRA had not been enacted and then

[1]Leslie A. Whittington and James Alm, "Tax Reductions, Tax Changes, and the Marriage Penalty," *National Tax Journal*, September 2001, p. 455.

[2]P.L. 107-16. The EGTRRA provisions that address marriage tax penalties take effect gradually over several years. There has been congressional interest in accelerating these changes. For example, the House recently passed H.R. 4626, which would accelerate the increase in the standard deduction for married couples (see the discussion below). Heather Bennett, "House Clears Marriage Tax Cut," *Tax Notes*, May 27, 2002, p. 1282. EGTRRA as a whole "sunsets" on December 31, 2010, which has been the focus of much attention.

recalculated after taking EGTRRA into account. The results suggest that after taking full effect, EGTRRA eliminates the marriage tax penalty for many childless two-earner couples. However, for two-earner couples with children, EGTRRA only partially reduces marriage tax penalties in a large proportion of circumstances, and it produces larger penalties in some situations. These increased penalties are often caused by the alternative minimum tax (AMT), which has been recognized as an increasingly important feature of the federal income tax.[3] One-earner couples generally have larger marriage tax bonuses, but the extent to which this occurs depends partially on whether the earner would qualify as a head of household or a single individual if the couple were not married.

The next section discusses the relevant federal income tax provisions that contribute to marriage tax penalties and bonuses and the changes made to them by EGTRRA. The structure of the analysis is then described, followed by its results. Finally, conclusions are drawn.

I. Relevant Tax Provisions and EGTRRA Changes

Marriage tax penalties and bonuses arise because a married couple generally is treated as one taxpaying unit.[4] There are many components of the federal income tax that contribute to marriage tax penalties and bonuses.[5] The ones that are relevant to the analysis here are discussed below, as well as the way that the changes made by EGTRRA are incorporated into the analysis.[6]

A. Standard Deduction

The standard deduction for 2002 is $7,850 for a married couple, $4,700 for a single individual, and $6,900 for a head of household. A married couple's standard deduction is thus larger than that for one unmarried individual (single or head of household), but it is smaller than the sum of those for two unmarried individuals. These standard deduction amounts generally result in a marriage tax penalty for a two-earner couple that does not itemize their deductions since their two standard deductions would be $1,550 to $5,950 greater if they were not married. However, a nonitemizing one-earner couple generally has a marriage tax bonus because a larger standard deduction is allowed for a married couple than for an unmarried individual. EGTRRA increases a married couple's standard deduction to equal twice that for a single individual, although the increase is gradual and is not complete until 2009. In the analysis below, the post-EGTRRA calculations assume that this increase is complete in 2002 (that is, the standard deduction for married couples is assumed to be $9,400).

B. Tax Rate Schedules

While a married couple faces the same set of marginal tax rates as an unmarried individual, the tax brackets for a married couple are wider than those for an unmarried individual but less than twice as wide.[7] For example, in 2002, the upper end of the 15 percent tax bracket is $46,700 for a married couple, $27,950 for a single individual, and $37,450 for a head of household. Similar to the effect of the standard deduction, this tax rate structure results in a marriage tax penalty for many two-earner couples since more of their taxable income would be taxed in lower tax brackets if they were not married, and it results in a marriage tax bonus for many one-earner couples since the earner's income is taxed under the most favorable tax rate schedule when he or she is married.

EGTRRA makes several changes to the tax rate schedules. First, it creates a new 10 percent tax bracket beginning in 2001 that applies to the first $12,000 of a married couple's taxable income ($6,000 and $10,000 for a single individual and head of household, respectively).[8] Second, it increases the upper end of the 15 percent tax bracket for a married couple to be twice that for a single individual, but the increase is gradual and does not fully occur until 2008. Third, EGTRRA gradually reduces the 28, 31, 36, and 39.6 percent marginal tax rates to 25, 28, 33, and 35 percent, respectively, with the full reduction first applying in 2006. In the analysis below, the post-EGTRRA calculations incorporate the actual 2002 10 percent tax bracket, and it assumes that the broadened 15 percent tax bracket for married couples and the reduced rates in the other tax brackets for all taxpayers apply in full.

C. Earned Income Credit

The earned income credit contributes to marriage tax penalties for some two-earner couples because the

[3]For discussion of the AMT and its increased importance after EGTRRA, see, e.g., Donald Kiefer, Robert Carroll, Janet Holtzblatt, Allen Lerman, Janet McCubbin, David Richardson, and Jerry Tempalski, "The Economic Growth and Tax Relief Reconciliation Act of 2001: Overview and Assessment of Effects on Taxpayers," *National Tax Journal*, March 2002, p. 89, and Heather Bennett and Timothy Catts, "NTA Panelists Propose Solutions to Individual AMT Problem," *Tax Notes*, June 10, 2002, p. 1574.

[4]Although the spouses have the option of filing separate tax returns, it usually is not advantageous to do so.

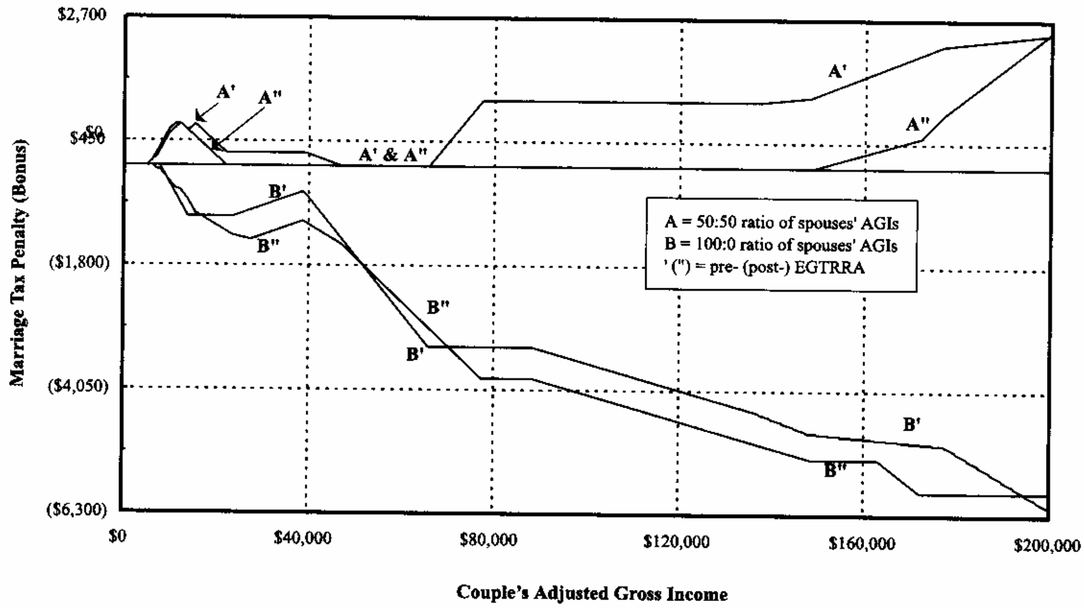
[5]For a very extensive list of tax provisions that can contribute to marriage tax penalties and bonuses, see General Accounting Office, *Income Tax Treatment of Married and Single Individuals*, GAO/GGD-96-175 (September 1996). Since the publication of this report, Congress has enacted additional income tax provisions that can contribute to marriage tax penalties and bonuses (e.g., phase out of education tax credits).

[6]Many of the changes made by EGTRRA take effect gradually over several years. Generally, the analysis takes into account fully any changes in percentages (for example, marginal tax rates), accelerating any such changes that are gradual, and any changes in dollars (for example, maximum amount of expenses for purposes of the child care credit) are taken into account by using the amounts that apply for 2002 (or the year closest to 2002).

[7]An exception is the aggregate width of all but the top tax bracket; it is the same for a married couple and an unmarried individual.

[8]These dollar amounts increase after 2007. Note that the width of the new 10 percent tax bracket for a married couple is twice that for a single individual.

Figure 1
Effect of EGTRRA on Marriage Tax Penalties and Bonuses
Married Couple With No Children



combining of the spouses' adjusted gross incomes (AGIs) causes more of the credit to phase out. However, this credit can contribute to marriage tax bonuses for some one-earner couples if the couple's children would qualify the nonearner, but not the earner, for a larger credit if the couple were not married. Marriage thus allows the earner's income to be taken into account when computing the credit, reducing taxes. Before EGTRRA, the amount of AGI beyond which the credit phased out did not vary with respect to marital status. EGTRRA increases this threshold for married couples by $1,000 starting in 2002, with larger increases occurring after 2004. The post-EGTRRA analysis below takes into account this $1,000 increase.

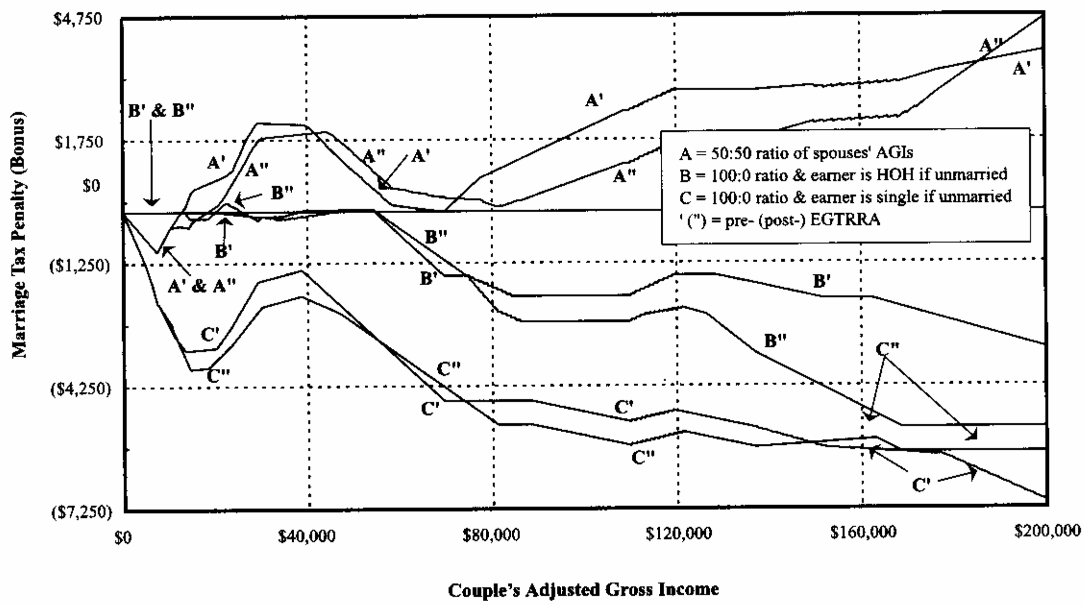
D. Child Care Credit

This credit is allowed for child care expenses while the taxpayer is at work. Because the credit percentage is reduced with respect to AGI and does not vary with respect to marital status, it can contribute to marriage tax penalties for two-earner couples. However, because the credit is nonrefundable, it can have the opposite effect if marriage creates the opportunity for the credit to offset more tax. This credit can also contribute to marriage tax penalties for one-earner couples whose earner would be able to claim this credit if the couple were not married. The amount of child care expenses that can be taken into account generally cannot exceed either spouse's earned income, so the couple cannot claim this credit when married due to the nonearner spouse. EGTRRA increased the maximum credit percentage from 30 to 35 percent and increased the amount of AGI beyond which the credit percentage is reduced from $10,000 to $15,000. The minimum credit percentage remains 20 percent, but this will not occur until AGI exceeds $43,000 (it was $28,000 before EGTRRA). EGTRRA also increased the maximum amount of child care expenses that can be used toward the credit from $2,400 to $3,000 if there is one qualifying child ($4,800 to $6,000 if there is more than one qualifying child). These changes take effect in 2003, but the post-EGTRRA analysis below assumes that they apply for 2002 also.

E. Child Tax Credit

This credit is allowed for merely having a qualifying child. Because the credit phases out if AGI exceeds $110,000 for a married couple and $75,000 for an unmarried individual, it can produce marriage tax penalties for two-earner couples (since $110,000 is less than twice as large as $75,000) and bonuses for one-earner couples (since $110,000 is greater than $75,000). In addition, because it is partially nonrefundable, it can give rise to marriage tax bonuses if the nonrefundable portion cannot be fully used if the couple is not married. EGTRRA gradually increases the amount of the credit per child from $500 to $1,000. EGTRRA also changes the extent to which this credit is refundable. Before EGTRRA, the credit was refundable for taxpayers with three or more children to the extent that social security taxes exceeded the earned income credit. After EGTRRA, the credit is also refundable to the extent of 15 percent of earned income exceeding $10,000 (10 percent of the excess for 2001 through 2004), with the

Figure 2
Effect of EGTRRA on Marriage Tax Penalties and Bonuses
Married Couple With One Child



$10,000 amount adjusted for inflation after 2001. This refundability is not limited to taxpayers with three or more children but also applies to those with one or two children. The post-EGTRRA analysis below assumes that a $600 credit per child is allowed (the actual amount for 2002) and that the credit is refundable to the extent of 15 percent of earned income in excess of $10,300 (the actual dollar threshold for 2002, but the post-2004 percentage).

F. Itemized Deductions and Exemptions Phaseout

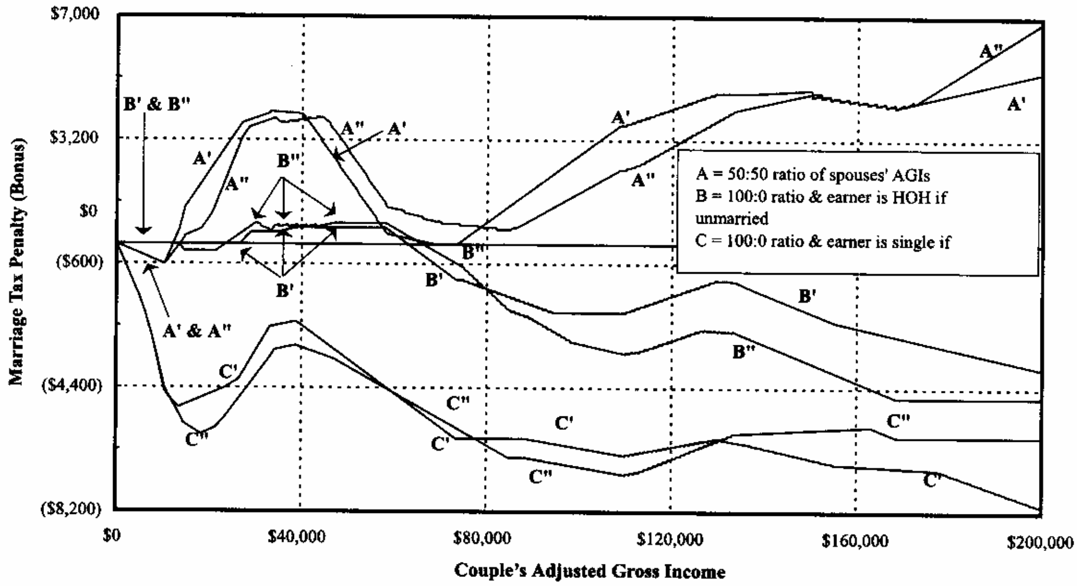
For high-income taxpayers, itemized deductions and personal exemptions are reduced or completely phased out. For both married couples and unmarried individuals, itemized deductions are reduced in 2002 by 3 percent of AGI in excess of $137,300.[9] Personal exemptions are reduced over a $122,500 range of AGI, beginning at $206,000 for married couples, $137,300 for single individuals, and $171,650 for heads of household. The itemized deductions phaseout can give rise to marriage tax penalties since the same phase-out threshold applies to both married couples and unmarried individuals. That is, a two-earner couple's pooled AGI can cause them to lose more of their itemized deductions than they would if they were not married. The personal exemption phaseout can give rise to either marriage tax penalties or bonuses. Since the threshold for this phaseout for a married couple is less than twice as large as that for an unmarried individual, a two-earner couple's personal exemptions might be larger if they were not married because they would be phased out less. On the other hand, a one-earner couple might have a smaller deduction for personal exemptions if they were not married because the lower threshold for an unmarried individual could cause them to be phased out more. EGTRRA gradually eliminates both of these phaseouts. The post-EGTRRA analysis below assumes that these phaseouts do not apply at all.

G. Alternative Minimum Tax

Understanding the effect of the AMT on marriage tax penalties and bonuses is more complicated than for the tax provisions above because the AMT depends on both the rules for computing the regular tax and those for computing the tentative minimum tax. Except for high-income taxpayers, the AMT rate is a flat 26 percent. Before EGTRRA, the AMT exemption amount was $45,000 for married couples and $33,750 for unmarried individuals, with the exemption phasing out if alternative minimum taxable income exceeded $150,000 for married couples and $112,500 for unmarried individuals. Thus, the AMT exemption amount and the threshold for its phaseout for a married couple are larger, but less than twice as large, as those for an unmarried individual, potentially leading to marriage tax penalties for two-earner couples and bonuses for

[9] However, this phaseout is limited to 80 percent of itemized deductions other than medical expenses, investment interest expense, casualty and theft losses, and gambling losses.

Figure 3
Effect of EGTRRA on Marriage Tax Penalties and Bonuses
Married Couple With Two Children



one-earner couples. EGTRRA increases the exemption amount before any phaseout by $4,000 for married couples and $2,000 for unmarried individuals (that is, to $49,000 and $35,750, respectively), but this applies only for 2001 through 2004, and EGTRRA leaves the phaseout thresholds unchanged. The post-EGTRRA analysis below incorporates these increases, which actually do apply for 2002.

II. Analysis

A. Method

Quantifying marriage tax penalties and bonuses would seem to be relatively straightforward since they are merely the difference between the income taxes paid by a married couple and their aggregate income taxes if they were not married. However, calculating a married couple's penalty or bonus requires one to make assumptions about their circumstances if they were not married.[10] For example, one would have to make assumptions regarding their respective incomes, which spouse would claim their children's personal exemptions and tax credits, and which spouse would qualify as a head of household. One should therefore be careful when interpreting marriage tax penalties and bonuses, including those reported below. The results should not be interpreted as *the* change in marriage tax penalties and bonuses due to EGTRRA; instead, they provide evidence of the changes for a range of circumstances that are hopefully a reasonable approximation for those of a meaningful proportion of married couples.

The federal income taxes for 2002 for married couples in various circumstances were calculated, and the taxes were then recomputed as if the couples were not married. The differences are the amounts of marriage tax penalties and bonuses. This process was performed both without and with the changes made by EGTRRA.[11] When computing these federal income taxes, the following circumstances were assumed:

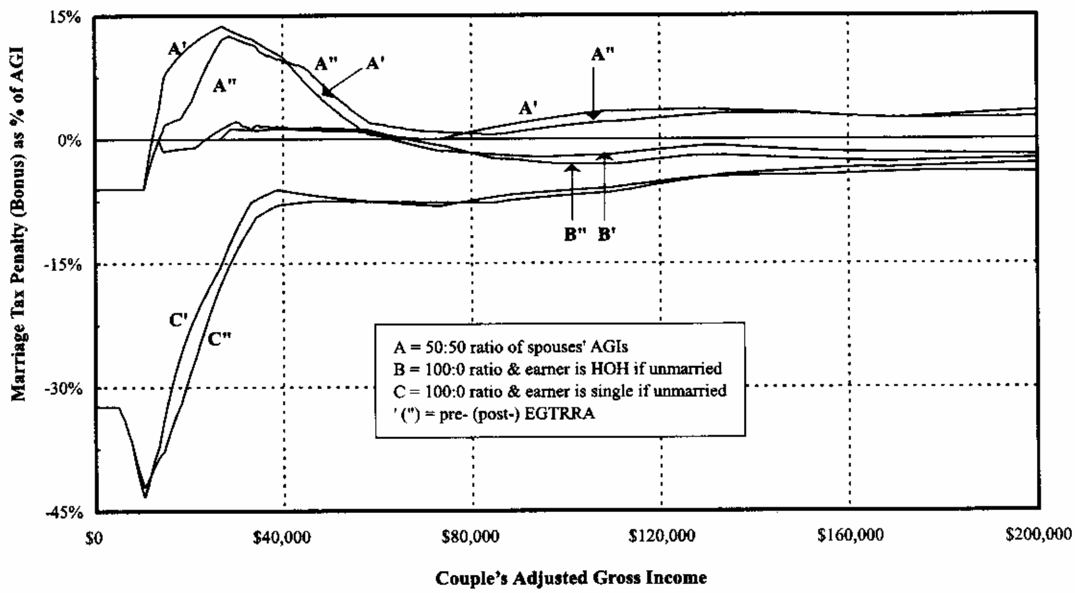
- Itemized deductions equal 20 percent of AGI.[12] If the standard deduction is claimed instead because it is larger, no additional standard deduc-

[10]For a more complete discussion of this issue, see, e.g., Whittington and Alm *supra* note 1, and Nicholas Bull, Janet Holtzblatt, James R. Nunns, and Robert Rebelein, *Defining and Measuring Marriage Penalties and Bonuses*, Office of Tax Policy Analysis Paper 82, November 1999.

[11]Recall that many of the EGTRRA changes take effect gradually over several years. *See* the discussion above for the ways in which these changes were taken into account in the analysis. For an analysis of the effect of EGTRRA on the tax burdens of lower- and middle-income families, see Len Burman, Elaine Maag, and Jeff Rohaly, "The Effect of the 2001 Tax Cut on Low- and Middle-Income Families and Children," *Tax Notes*, July 8, 2002, p. 247.

[12]For taxpayers itemizing their deductions in 1999, total itemized deductions were 19 percent of total AGI. Internal Revenue Service, *Individual Income Tax Returns 1999*, Washington: Government Printing Office, 2001.

Figure 4
Effect of EGTRRA on Marriage Tax Penalties and Bonuses
Married Couple With Two Children



tion is allowed because the taxpayers are less than 65 years of age and are not blind.

- The taxpayers' children all qualify for the earned income credit, the child care credit, and the child tax credit.
- The only AMT preference and adjustment items are personal exemptions and either (a) the standard deduction or (b) 45 percent of itemized deductions.[13]
- AGI consists only of wages and salaries.[14]

B. Results

Figure 1 depicts the amount of marriage tax penalties (bonuses if negative) for a married couple with no children, where the couple's AGI ranges from $0 to $200,000. These penalties and bonuses are depicted for two ratios by which the couple's AGI would be attributable to each spouse if they were not married: a 50:50 ratio (referred to here as a two-earner couple) and a 100:0 ratio (that is, a one-earner couple). For a two-earner couple with $6,150 to $12,060 of AGI (graphs A′ and A″), the marriage tax penalty is reduced slightly by EGTRRA because the earned income credit begins phasing out at an AGI that is $1,000 higher. Between $13,850 and $47,000 of AGI, the larger standard deduction provided to married couples results in a reduced penalty after EGTRRA, and there is no marriage tax penalty for much of this range.[15] At $65,875 of AGI, the benefit of the broadened 15 percent tax bracket can be observed, and there is no marriage tax penalty after EGTRRA until AGI reaches $148,563.[16] At that point, the married couple moves into the post-EGTRRA 25 percent tax bracket, which results in a marriage tax penalty because its threshold is less than twice as large for a married couple than for a single individual (that is, $112,850 versus $67,700 of taxable income). However, the amount of penalty is still reduced by EGTRRA because the couple still benefits from the broader 15 percent tax bracket. At $172,177, the decrease starts to narrow because the married couple incurs an AMT

[13]In 1999, 43 percent of itemized deductions were for taxes paid and miscellaneous itemized deductions, which are not deductible for AMT purposes. Internal Revenue Service, *supra* note 12.

[14]This assumption affects the earned income credit, whose phasein depends on earned income and whose phaseout depends on both earned income and AGI. It also affects the child care credit since the amount of child care expenses that are taken into account cannot exceed either spouse's earned income. Finally, this assumption affects the refundable portion of the child tax credit, which is based on the excess of earned income over $10,300 in 2002 when EGTRRA is taken into account.

[15]Given the assumption that itemized deductions equal 20 percent of AGI, a married couple will itemize their deductions post-EGTRRA when AGI exceeds $47,000. The increase in the standard deduction thus provides these taxpayers with no tax reduction.

[16]When AGI exceeds $137,300, EGTRRA eliminates the marriage tax penalty arising from the itemized deductions phaseout, but this is virtually undetectable in figure 1.

after EGTRRA, and EGTRRA increases the marriage tax penalty when AGI exceeds $199,349. At these high income levels, the AMT constrains the extent to which EGTRRA cuts taxes for the married couple but not for the pair of single individuals (that is, the two earners if they were not married).

Graphs B′ and B″ in figure 1 show the change in marriage tax bonuses for a one-earner couple with no children, and they show that EGTRRA generally increases these bonuses. For AGIs between $9,230 and $16,750, marriage tax bonuses are instead reduced because, due to the application of the new 10 percent tax bracket for the single individual (that is, the earner when unmarried) and an increased standard deduction for the married couple, taxes are reduced more for the former than for the latter. Similarly, from $51,188 of AGI to $70,281, the bonus is reduced because EGTRRA reduces the single individual's marginal tax rate from 28 to 25 percent but the married couple's 15 percent tax rate does not change. Between $16,750 and $51,188, the marriage tax bonus is increased because of the larger standard deduction and the wider 10 percent tax bracket that EGTRRA provides for married couples than for single individuals. As with the two-earner married couple, the effect of the broadened 15 percent tax bracket for married couples can be observed starting at $65,875 of AGI, but the couple moves into an AMT position at $172,177. At this point, the level of bonuses after EGTRRA becomes flat because the single individual has already moved into an AMT position (at $163,089). Before EGTRRA, the marriage tax bonus increased at $177,529 because the single individual's regular taxable income entered the 36 percent tax bracket. This does not occur after EGTRRA because of the AMT, and there is a decreased bonus when AGI exceeds $194,750.

Figure 2 shows the marriage tax penalties and bonuses for a married couple with one child before and after EGTRRA. Three circumstances if the spouses were not married are shown: their AGIs would have a 50:50 ratio, their AGIs would have a 100:0 ratio and the earner would qualify as a head of household, and a 100:0 ratio but the earner would qualify as a single individual.[17] For the two-earner couple (graphs A′ and A″), there is no change in the marriage tax bonus when AGI is $10,300 or less.[18] From $10,300 to $41,629 of AGI, the marriage tax penalty is decreased (or bonus increased) by EGTRRA because of the child tax credit's expanded refundability and because the earned income credit phase-out threshold and standard deduction are increased for married couples. However, these sources of decreased penalties are partially offset by two sources of increased penalties. First, the 10 percent tax bracket for a married couple is smaller than the aggregate ones for a head of household and single individual (that is, $12,000 versus $10,000 + $6,000). Second, the expansion of the child care credit allows the AGI-based reduction in the credit's percentage to occur at higher levels of AGI. These two factors cause an increased marriage tax penalty from $41,629 to $72,702 of AGI. Beyond that range, the broadened 15 percent tax bracket provides enough of a tax reduction that there are decreased penalties. The married couple starts to incur an AMT after EGTRRA at $136,943 of AGI, and this effect becomes stronger at $168,539, when their AMT exemption starts to phase out. Consequently, EGTRRA increases marriage tax penalties for this type of married couple if their AGI exceeds $185,854.

When the married couple has only one earner and that spouse would qualify as a head of household if the couple were not married (graphs B′ and B″ in figure 2), there is only a small amount of marriage tax penalty or bonus when AGI is less than approximately $55,000, both before and after EGTRRA. At $54,313, the graphs turn downward, and marriage tax bonuses are decreased by EGTRRA because, if the couple were not married, the earner's marginal tax rate would be 25 rather than 28 percent. Beyond $74,469 of AGI, bonuses are increased by EGTRRA, with much of the increase attributable to the broadened 15 percent tax bracket. The AMT again affects the results at higher AGIs, although in a different manner than above. Before EGTRRA, the couple's earner would have moved into an AMT position at $162,164 of AGI if they were not married. With EGTRRA, this occurs at $113,058, and the AMT exemption starts to phase out at $126,404.[19] The married couple does not incur any AMT after EGTRRA until $136,943 of AGI (and beyond $200,000 without taking into account EGTRRA).

If the one-earner couple's earner were to qualify as a single individual if they were not married (graphs C′ and C″ in figure 2), EGTRRA increases the marriage tax bonus for some levels of AGI and decreases it for other levels. Between $11,600 and $55,354, bonuses are increased because of the 10 percent tax bracket's width for a married couple versus a single individual and because of the changes made to the earned income credit phaseout, the standard deduction, the child care credit, and the child tax credit. From $55,354 of AGI to $73,906, there are decreased marriage tax bonuses because these factors are more than offset by the reduction of the earner's marginal tax rate from 28 to 25 percent if the couple were not married. The effect of the broadened 15 percent tax bracket can be observed starting at $69,625 of AGI. At $136,943, the married couple moves into an AMT position, and the marriage tax bonus is consequently decreased by EGTRRA when

[17]When the AGI ratio would be 50:50 if the couple were not married, one spouse would qualify as a head of household and the other would not. The analysis assumes that the spouse who would qualify as a head of household would also be entitled to claim the personal exemption and tax credits for the child.

[18]The couple has a marriage tax bonus because both spouses' earned incomes are taken into account for the earned income credit with respect to their child, which would not occur if they were not married.

[19]The movement of the unmarried earner into an AMT position after EGTRRA at $113,058 of AGI is masked in graph B″ by the child tax credit phaseout for the married couple against which the unmarried earner is being compared.

AGI is $148,856 or more. This effect is mitigated at $163,089, when, if the couple were not married, the earner would move into an AMT position (and the AMT exemption is already phasing out), but it changes yet again at $168,539, when the married couple's AMT exemption starts to phase out also.

Figure 3 presents the results for a married couple with two children in three situations: the spouses' AGIs would have a 50:50 ratio and both would qualify as heads of household if they were not married, their AGIs would have a 100:0 ratio and the earner would qualify as a head of household, and a 100:0 AGI ratio with the earner qualifying as a single individual.[20] The two-earner couple's marriage tax penalty (graphs A' and A") is decreased (or bonus is increased) for AGIs between $10,300 and $41,000, and the reasons are similar to those for a two-earner couple with one child: the child tax credit's expanded refundability and the increased earned income credit's phase-out threshold and standard deduction for married couples. Similar also to figure 2, these sources of reduced penalties are partially offset by the new 10 percent tax bracket, which is wider for two heads of household than for one married couple, and the AGI-based reduction in the child care credit percentage occurring at higher levels of AGI than before EGTRRA. Between $41,000 and $78,375 of AGI, these two factors cause an increased marriage tax penalty, and they create a penalty where none would exist without EGTRRA between AGIs of $69,000 and $73,375. The broadened 15 percent tax bracket begins to benefit the married couple at $73,375 and causes a decreased marriage tax penalty from $78,375 to approximately $150,000. However, at $113,058, the married couple moves into an AMT position after EGTRRA, and this AMT effect strengthens when their AMT exemption starts to phase out at $168,539 of AGI. As a result, the marriage tax penalty is more or less unchanged by EGTRRA between approximately $150,000 and $172,000, and it is increased beyond that.

The one-earner married couple whose earner would qualify as a head of household if unmarried (graphs B' and B" in figure 3) has a small marriage tax bonus after EGTRRA from $13,520 to $23,506 of AGI due to the increased earned income credit phase-out threshold for married couples.[21] From $23,506 of AGI to $79,719, EGTRRA increases the marriage tax penalty (or decreases the bonus) because the increased child care credit benefits the earner when unmarried but not when married due to the nonearner spouse.[22] However, this is partially offset by the increased standard deduction and broader 10 percent tax bracket that a married couple is allowed. Beyond $79,719 of AGI, EGTRRA increases marriage tax bonuses. The AMT affects the results at high levels of AGI, but, similar to graphs B' and B" in figure 2, it affects the earner whether or not he or she is married, albeit at different levels of AGI.

Graphs C' and C" in figure 3 show the marriage tax bonuses for a one-earner couple whose earner would qualify as a single individual if they were not married. Below $11,600 of AGI, there is little or no change in the amount of bonuses. Between that point and $59,521, marriage tax bonuses are increased by EGTRRA, with the increase attributable to factors similar to those above: the earned income credit phaseout, the standard deduction, the 10 percent tax bracket, and the child care credit. From $59,521 of AGI to $77,531, the marriage tax bonus is reduced by EGTRRA because, if the couple were not married, the earner's marginal tax rate as a single individual would be cut by EGTRRA from 28 to 25 percent. However, the broadened 15 percent tax bracket for married couples then causes this decrease in the tax bonus to narrow and reverse. Once again, the AMT affects the results, with the earner moving into an AMT position after EGTRRA at $113,058 and $163,089 of AGI when he or she is married and unmarried, respectively. This AMT effect results in a decreased marriage tax bonus due to EGTRRA if AGI exceeds $130,175.

In figures 1, 2, and 3, one can see that the amounts of marriage tax penalties and bonuses and the extent to which they are changed by EGTRRA are generally larger for higher-income couples than for other couples. One must be careful when interpreting this result, though, since a dollar may have decreasing significance as income increases. Figure 4 shows the amount of marriage tax penalty or bonus as a percentage of AGI for a couple with two children. This figure shows that as a percentage of AGI, these penalties and bonuses are much more substantial for lower-income couples than for those with higher incomes. Comparable graphs for couples with fewer children are qualitatively similar to figure 4.

III. Conclusion

One of the objectives of EGTRRA was to mitigate the marriage tax penalties in the federal income tax. However, the changes made by EGTRRA to address these penalties focused on only a few of the tax law components that contribute to them, and some of the other components that can give rise to these penalties were changed by EGTRRA in ways that did not address marriage tax penalties. Given this partial attention to the numerous sources of these penalties and the complex ways with which the various relevant tax rules

[20]It was assumed here that if the two-earner couple were not married each spouse would qualify as a head of household for the personal exemption and for the tax credits for one of their children. It was also assumed that if the earner of the one-earner couple were not married, he or she could claim the children's personal exemptions and tax credits if he or she would qualify as a head of household but not if he or she would qualify as a single individual.

[21]The larger standard deduction for married couples provides no tax benefit because any precredit tax is offset by nonrefundable credits that are not fully used.

[22]Recall that the amount of child care expenses that can be taken into account for the child care credit is limited to the lesser-earning spouse's earned income.

can interact, the effect of EGTRRA on marriage tax penalties is unclear. Moreover, many couples experience marriage tax bonuses rather than penalties, and EGTRRA changed many of the federal income tax provisions that contribute to these bonuses.

The analysis here analyzed the effect of EGTRRA on marriage tax penalties and bonuses for 2002 for a variety of family structures and economic circumstances. The results suggest that for many two-earner couples with children, EGTRRA reduced marriage tax penalties, but the decrease, relative to the pre-EGTRRA penalty, is typically small. Marriage tax penalties are eliminated for childless two-earner couples in many circumstances. EGTRRA generally increases marriage tax bonuses for one-earner couples, although the magnitude of the increase is usually modest compared to the pre-EGTRRA bonus. The AMT affects the results at higher income levels, with the effect of EGTRRA for these couples being increased penalties and decreased bonuses.

It is well established that a progressive tax system cannot simultaneously attain marriage neutrality, where marriage or divorce does not affect a couple's taxes, and equal taxation of equal-income married couples.[23] The federal income tax has generally sacrificed marriage neutrality and, over the past three decades, has done so in a manner that often results in marriage tax penalties for two-earner couples (especially those with children) and marriage tax bonuses for one-earner couples. By failing to differentiate between one-earner and two-earner couples, EGTRRA generally shifts, but by only a relatively small amount, the manner in which marriage neutrality is violated, with fewer tax penalties and greater tax bonuses. The results thus suggest that Congress succeeded only modestly in its objective of mitigating marriage tax penalties.

[23]Whittington and Alm, *supra* note 1.