

## **Here's the Easy Way to Tax the Rich**

*di Zachary Liscow*

The United States is seeing an increasing concentration of wealth at the very top and a worsening national debt. For many Americans, taxing the rich more is an obvious move.

Ask tax policy experts how to do this, and you will often hear novel proposals to curb the many intricate ways the rich make and hide their money: A wealth tax. A tax on unrealized gains. A tax on the loans that billionaires take against their stock. These ideas, now common in progressive tax thinking, come with serious catches, legal or arithmetical. The tax code has structural flaws, and many of the ideas would be good in theory. But pursuing them could result in little or no new revenue for the government.

The boring truth is that Congress can accomplish a lot simply by raising the rates of the taxes already on the books.

Elizabeth Warren, a Democratic senator from Massachusetts, has proposed a 2 percent annual levy on fortunes above \$50 million, rising to 3 percent on those over \$1 billion. There are serious constitutional and policy arguments for this idea, but the Supreme Court's current members would probably strike it down. (A California proposal for a state-level wealth tax would not face the same legal barriers, but it would be a partial response to problems that are national in scale.)

Then there are proposals for a "mark to market" tax, which would tax unrealized capital gains — the appreciation in the paper value of assets such as stocks — every year, not just when an asset is sold. Ron Wyden, a Democratic senator from Oregon, has proposed a billionaire income tax along these lines. Such a tax would raise a lot of money for the Treasury. But it faces its own constitutional hurdles. The Supreme Court has left the legal status of unrealized-gains taxes deliberately unresolved, and a mark-

to-market tax's chances at the court would be, at best, 50-50. Despite the proposal's many appeals, building a generation of fiscal policy on a coin flip would be risky.

Another idea is imposing a borrowing tax, a policy aimed directly at the [widely criticized](#) “buy, borrow, die” loophole. The loophole allows the rich to take loans against their portfolios and use the money to finance glamorous lives. They pay no capital gains tax because they avoid selling the assets — often stock that has risen in value — that they use as collateral for the borrowing that sustains their lifestyles. When they die, they pass on their assets to their heirs, who, because of the “stepped-up basis” loophole in inheritance law, can avoid paying capital gains taxes even if they sell those assets. A borrowing tax would discourage the buy, borrow, die strategy and restore some fairness to the tax code. It's a policy I like — I [proposed](#) my own version of it.

Except the wealthy are not using the buy, borrow, die loophole all that much. In [work with Edward Fox](#) of the University of Michigan, I looked at two decades of data measuring how much the rich actually borrow. The top 1 percent borrow an amount equal to roughly 2 percent of their economic income each year — defined broadly to include the gains on stocks they haven't sold. Their unrealized gains over the same period were about 20 times that amount. At current tax rates, imposing a borrowing tax would raise about \$50 billion over 10 years — a paltry number relative to the size of the federal budget. It's just not where the money is.

Congress has a simpler, tried-and-true tax policy to choose from: raising the rates.

Current taxes already reach most of the rich's economic income, which includes unrealized capital gains. The existing income tax captures about 60 percent of the top 1 percent's economic income and roughly 71 percent after adjusting for inflation. Even for the top 0.1 percent, about 60 percent is taxed, adjusted for inflation.

Measured this way, the ultrarich mostly aren't escaping the tax system through exotic loopholes. They mostly increase their fortunes with and spend regular taxable income — salaries, dividends, interest, business profits, realized capital gains — and they earn a lot of it.

This means the most powerful lever is also the simplest one. Restore the top marginal ordinary income tax rate to its pre-2017 level of 39.6 percent — which, but for President Trump's tax cuts, would have [applied to income](#) over \$546,750 this year.

And raise the (much lower) top capital-gains rate. Increasing these rates would generate hundreds of billions of dollars over a decade. That is much more than a borrowing tax could plausibly raise, and without the legal risk that would come with a wealth tax or a mark-to-market tax.

Yes, higher rates can change people's behavior, encouraging some to find ways to avoid paying more in income taxes. But revenue estimates already consider this effect.

In addition, [raising the corporate tax rate](#) from 21 percent toward the 35 percent it had been set at historically would add hundreds of billions in revenue for the government. Congress could bring in even more by ending the step-up basis rule, which allows heirs to inherit assets and owe nothing in capital gains taxes on the amount those assets have appreciated since they were purchased.

None of this would require defending untested constitutional theories or imposing complex asset valuation systems. We've done almost all of it before. True, raising rates is politically hard. But the other options on this list would arguably be harder to get through Congress, for an uncertain or modest payoff. A wealth tax that gets struck down or a mark-to-market regime tied up in years of litigation would raise zero dollars any time soon. A borrowing tax would raise some money but not much.

Public outrage at billionaire tax dodging is understandable. But the country cannot afford to spend huge amounts of political capital to pass experimental tax policy that is based on exaggerated stories about how the ultrawealthy avoid paying taxes or on wishful thinking about what the current courts will allow. Raising the rates — the simple, boring answer — is where the real money lies.