



Unequal Taxes on Equal Benefits

The Taxation of Domestic Partner Benefits

M. V. Lee Badgett

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Introduction and Summary

Employer-provided health insurance is the backbone of health coverage for American families. Most people who have health insurance get it through their own employer or a family member's employer.¹ Public policy encourages employers to provide health insurance by exempting that form of compensation from taxation. As a result, married workers who get family health insurance benefits get a double benefit—they get health insurance coverage for their spouses and children and are not taxed on the value of that coverage.

In sharp contrast, workers who have an unmarried domestic partner are doubly burdened: Their employers typically do not provide coverage for domestic partners; and even when partners are covered, the partner's coverage is taxed as income to the employee. Employers who cover domestic partners are also penalized under current law, since employer payroll tax responsibilities increase along with employees' income and Social Security taxes.

As a result, the taxation of domestic partner health care benefits sets up a two-tiered tax policy that costs many American families and their employers millions of dollars each year. This report estimates the financial impact of this extra tax on employees and employers.

In this report, we will detail how employees with partners now pay on average \$1,069 per year more in taxes than would a married employee with the same coverage. Collectively, unmarried couples lose \$178 million per year to additional taxes. U.S. employers also pay a total of \$57 million per year in additional payroll taxes because of this unequal tax treatment. Because the number of unmarried couples is growing, over time this unfair treatment will affect millions of families.

To remedy this situation, we recommend that Congress enact legislation now under consideration that would eliminate this federal tax on equal benefits. The legislation would exclude the value of domestic partner benefits, or DPBs, from income subject to taxation just as the value of employee and spousal benefits is excluded.

Unequal Taxes on Equal Benefits

Background: The Uneven Playing Field for Benefits

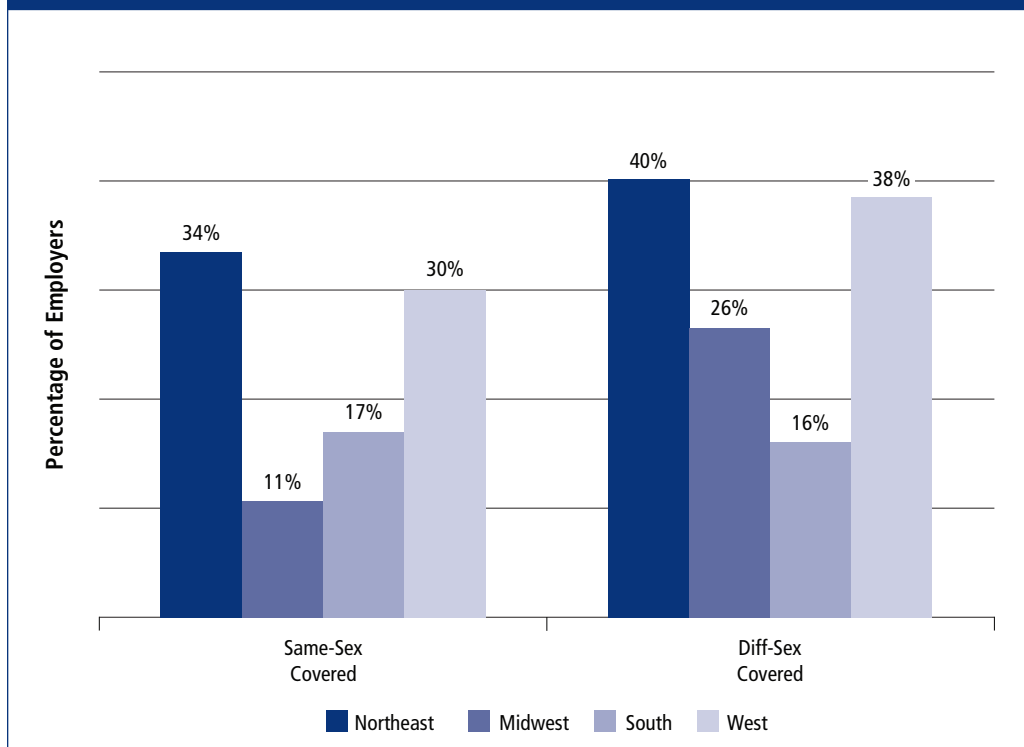
Families depend on employers for health insurance coverage. In 2007, 60 percent of employers offer health benefits to employees and typically to the spouses and children of employees as well.² A much smaller percentage of employers, however, offer coverage to the unmarried domestic partners of employees. Findings from a recent survey suggest that only 22 percent of employers cover same-sex partners of employees, and 28 percent cover different-sex partners.³

But coverage is uneven. A 2007 Kaiser Family Foundation survey shows that large employers (with 200 or more employees) are much more likely to cover same-sex partners than small employers,⁴ as also seen in the fact that 53 percent of Fortune 500 firms offer such benefits.⁵ Coverage of partners is also much more common in the Northeast and West Coast states than in the South or Midwest, as shown in Figure 1 on page 3.

Some of the regional differences might reflect differences in the legal status of same-sex couples, since the states that give rights to same-sex couples are clustered on the West and East coasts. Massachusetts allows same-sex couples to marry, but no other state does. Vermont, California, Connecticut, New Jersey, New Hampshire, the District of Columbia, and Oregon allow same-sex couples to enter into a registered domestic partnership or civil union status, which provides most of the state-provided legal rights and responsibilities of marriage. Hawaii, Washington, and Maine give same-sex couples a lesser package of rights.

Legal recognition may have led same-sex couples to push employers in these states to cover partners. Alternatively, increased social tolerance in these regions may account for both formal recognition by the states and increased rates of offering DPBs by private companies.

The recent increase in partner coverage is likely tied to various economic and social trends.⁶ In the 1990's, the temporary slowdown in the rate of increase of health care costs plus low unemployment rates allowed employers to add partner benefits to recruit and retain valued employees. Gay, lesbian, and bisexual employees pressed their employers to offer health care benefits to domestic partners as part of a larger movement for equal rights.

FIGURE 1: COVERAGE OF PARTNERS BY REGION

Source: Author's calculations from findings in Kaiser Family Foundation survey, note 2.

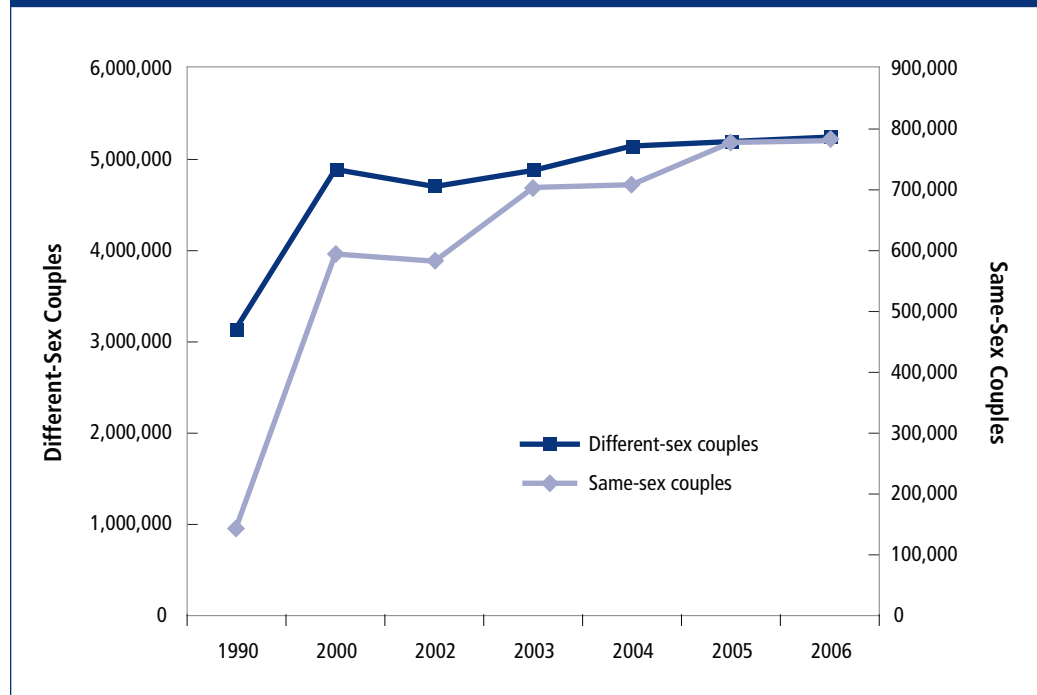
As companies increased their coverage of partners, evidence accumulated that the cost of coverage was very small and the possibility that domestic partners would have higher-than-average health care costs was also very low. One recent study suggests that 0.1 percent to 0.3 percent of employees will sign up a same-sex partner for health care benefits, and 1.3 percent to 1.8 percent of employees would sign up a different-sex partner.⁷

Pressure on companies to treat employees with partners equally when compared with married employees is likely to increase. Over the last few decades, the number of families who fall into this category has been increasing as a result of changes in marriage patterns for different-sex couples and an increasing willingness to be open for same-sex

couples, as shown in Figure 2 on page 4.⁸ The number of different-sex unmarried couples increased to 5.2 million in 2006 from 3.1 million in 1990. The number of same-sex couples increased to 780,000 in 2006 from 145,000 in 1990.

Over the last sixteen years, the biggest percentage increases in the counts of same-sex couples have come in the Midwest and South, suggesting that the relatively low rates of partner coverage by employers in those regions may soon come under increasing scrutiny.⁹ More than 6 million unmarried couples are now living together as partners. These families often include children, as well. In Census 2000, one in four same-sex couples had children under 18 living in the home, as did 39 percent of different-sex unmarried couples.¹⁰

FIGURE 2: NUMBERS OF UNMARRIED COUPLES



Source: Data from U.S. Census and American Community Survey provided by Dr. Gary Gates.

These millions of couples face a significant disadvantage in getting health insurance coverage for their families, since employers typically do not provide health care benefits to domestic partners of employees. This practice leaves people with partners particularly vulnerable to being uninsured.

Recent research shows that people in unmarried couples are two to three times more likely to be uninsured than people who are married, mainly because of their exclusion from employer-provided plans.¹¹ Figure 3 shows that while 16 percent of the whole United States population is uninsured, only 11.5 percent of married people lack insurance. In contrast both different and same-sex couples have higher rates of uninsurance than the general population: 20 percent of people with same-sex partners and almost one-third of people with different-sex unmarried partners are uninsured.

A recent study found that if employers offered equal coverage for spouses and unmarried partners, the gap in insurance coverage between the two groups would fall by at least a third.¹²

One significant inequality remains for people with domestic partners. Even when employers offer equal benefits, the Internal Revenue Code treats the value of the benefits as taxable income, or “imputed income,” to the employee.¹³ The only exception to taxation comes when the partner qualifies as a dependent of the employee.¹⁴

In addition, employers must also pay taxes on this imputed income for their share of the employee’s payroll tax. In contrast, benefits for an employee or for an employee’s spouse are **not** considered taxable income, regardless of the dependence or independence of the spouse.

Although we do not know the precise impact of the taxation of partner benefits on an employee's choice of coverage for a partner or on an employer's choice to offer such benefits, standard economic reasoning suggests that the taxation of benefits increases the price of coverage for employees and employers. That higher price, therefore, would reduce the number who would enroll a partner for benefits and the number of employers who offer such benefits.

Equal Benefits, Unequal Taxes

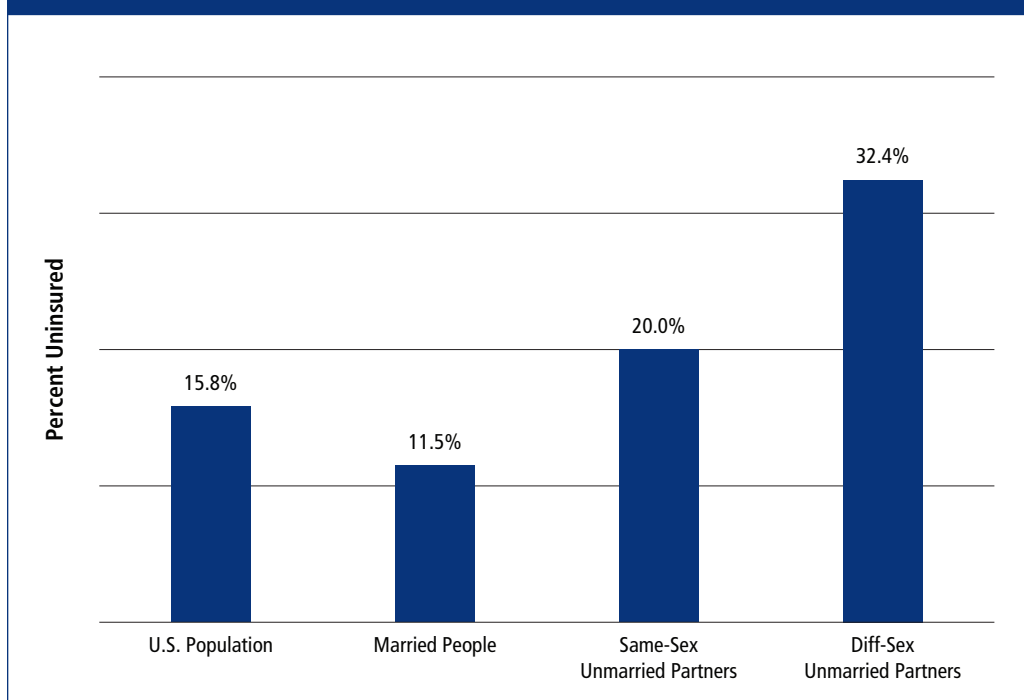
While we do not know the effect of the taxation of domestic partner health care benefits on the willingness to sign up a partner, this unequal taxation will clearly put a dent in employees' budgets. The two-tiered tax policy costs families headed

by unmarried partners and their employers millions of dollars each year. Employees pay both income tax and the 7.65 percent payroll tax (for Social Security and Medicare) on the imputed income. Employers also pay 7.65 percent on imputed income for their share of the payroll tax.

A related tax disadvantage is that employees cannot use pre-tax dollars to pay for a partner's coverage. In this section, we calculate the average impact of unequal taxation on the average employee with a partner as well as the impact on the employer.

To estimate the amount of taxes paid by employees and employers on the value of partner benefits, we use data from several government data sources: the Current Population Survey, the U.S. Census 2000, the Medical Expenditure Panel Survey, and Internal Revenue Service data.

FIGURE 3: PERCENT UNINSURED



Source: Ash and Badgett (see note x).

(In the appendix on page 9 we outline the three steps involved in calculating our estimate in detail.)

The first step is to estimate the number of people who are currently paying taxes on DPBs. The Current Population Survey provides information on how many employees are getting employer-provided benefits for their partners, and we apply the percentages of those covered to counts of couples from Census 2000, providing an estimate of 210,000 people receiving partner benefits. Slightly more than a third of those people have children.

Some of these individuals covered are likely to qualify as dependents, making their benefits nontaxable. Taking out those partners who are most likely to be dependents leaves 166,000 people receiving taxable partner benefits.

Second, we estimate the likely average imputed income on which those individuals pay taxes. The IRS requires no set procedure for measuring this imputed income, but one common method is to measure the increased employer contribution that results from signing up a partner. When an employee moves from single coverage to “employee-plus-one” or family coverage, the employer often pays part of that higher premium.

The Medical Expenditure Panel Survey (discussed further in the appendix) of employer contributions to health care plans suggests that the increase in the employer contribution from adding a partner with no children would be \$3,027 per year for the average employer. The increase for someone adding a partner and children would likely be \$4,068, which is the employer contribution averaged across two situations—

when moving from individual to family coverage or when moving from employee-plus-one to family coverage.

After estimating the number of people who receive DPBs and the value of those benefits, in step three we estimate the amount paid in additional taxes. The tax rate paid by employees depends on their tax bracket, which in turn depends on the employee’s income.

Employees whose highest tax rate is 10 percent will pay 10 percent of the value of partner benefits in additional taxes, or an extra \$303 (10 percent of \$3,027) for an employee who has a partner but no children. An employee whose income puts him or her in the 33 percent bracket would pay \$1,009 in additional taxes.

We use IRS statistics on the highest rate paid by taxpayers to estimate how many employees receiving partner benefits are in each tax bracket. Finally, we calculate 7.65 percent of imputed income to get the extra payroll tax payments for employees and for employers.

After putting the three steps together, the average employee who receives partner benefits pays an additional \$771 per year out of pocket in federal taxes based on the value of those benefits. Out of this average, \$523 is for the federal income tax. The remaining \$248 is the average paid for the FICA tax.

Employers pay the same \$248 in additional federal payroll taxes. These tax payments are in addition to any payments made for premiums, deductibles, or co-payments. Moreover, in most states, employees would also pay state income tax on partner benefits, perhaps adding hundreds of dollars to their tax bills.

In contrast, a married employee and his or her employer pay no additional taxes on the value of health care benefits for their spouses. To put this added tax in perspective, an employee with a partner who gets employer-provided coverage pays 8 percent more in taxes than he or she would otherwise.¹⁵

A second related disadvantage adds to the extra taxes paid on the employee contribution for coverage. Since employees cannot pay for partner coverage with pretax dollars, they also lose out on a potential \$298 in savings, which is calculated based on the employee contribution in the same way as the extra tax on imputed income. Thus the total tax disadvantage is on average \$1,069, or 11 percent of taxes paid by the typical single taxpayer.

Table 1 adds up taxes paid by all employees and employers with partner benefits, including both out-of-pocket taxes on imputed income and lost pre-tax savings (assuming that all would otherwise pay the employee share with pre-tax dollars).¹⁶ Employees pay \$178 million more per year in taxes. Employers pay \$57 million more per year. Together they pay \$235 million in additional taxes.

Overall, employees with different-sex partners account for 79 percent of the higher taxes that either they or their

employers pay, since there are more employees who have different-sex partners than same-sex partners. Employees with same-sex partners account for 21 percent of the total of \$235 million that workers and businesses pay in additional taxes.

Fiscal Implications for Eliminating the Equality Tax

Legislation has been introduced that would eliminate this federal tax on equal benefits. The 2007 “Tax Equity for Domestic Partner and Health Plan Beneficiaries Act” (S. 1556) and “Tax Equity for Health Plan Beneficiaries Act” (H.R. 1820) would exclude the value of DPBs from income subject to taxation. Since the extra taxes on partner benefits paid by employers and employees constitute tax revenue for the federal government, this bill would have the effect of reducing federal tax revenue.

Such a law could have state fiscal implications as well. Some states, including California and Massachusetts, however, already exclude the value of partner benefits from state taxation for registered domestic partner or married same-sex couples.

The calculations in this report provide an estimate of the change in federal tax revenue if the bill were passed. The loss in tax revenue would be equal to the extra taxes now paid, estimated above as \$235 million per year, depending on how many partner benefit recipients now qualify as tax dependents.

If eliminating the unequal taxation of partner benefits leads more employers to offer those benefits or leads more employees to sign up for benefits, the number of recipients would obviously increase.

TABLE 1: ADDED TAXES PAID ON DOMESTIC PARTNER BENEFITS

Employees	
Imputed income tax	\$128,432,315
Loss of pre-tax savings	\$49,614,095
Employers	\$57,276,839
TOTAL	\$235,323,248

Source: Author's calculations (see appendix for details)

The fiscal impact of the policy change, however, would not need to reflect such changes, since those individuals are not *now* paying taxes that would be lost after the policy change.

To put the revenue loss in perspective, we compare it to the total “cost” of the exclusion of all employer health benefits from taxation. In fiscal year 2008, the total cost of the exclusion for all employees, their spouses, and their children or other dependents is expected to be \$160 billion. In other words, because employer-provided health benefits are not taxed as income, the federal government loses \$160 billion per year in income tax payments.¹⁷

In contrast, expanding the exclusion to cover DPBs would cost only \$235 million, or 0.1 percent of the total cost to the federal government of the health benefit exclusion.

The Equality Tax Dilemma:

Taxed if you do, uninsured if you don't

The federal tax treatment of employer-provided health care benefits has developed to encourage employers to provide health care benefits to employees. The taxation of domestic partner benefits, however, is likely to discourage the take-up of family coverage by people with domestic partners. Furthermore, the tax gives businesses a disincentive to provide coverage to domestic partners.

Employees face the uncomfortable choice of paying more in taxes or risking their family members' health. In effect, the extra \$1,069 in taxes that an employee pays to cover his or her domestic partner runs counter to the purposes of policies that promote both health and equality among Americans.

Appendix

Calculating Taxes Paid on Domestic Partner Benefits

We calculate the direct impact of taxing domestic partner benefits in three steps. First, we estimate the number of people who are currently paying taxes on domestic partner benefits, or DPBs. Second, we estimate the likely average imputed income on which those individuals pay taxes and their lost tax savings. Third, we allocate people from step one into their likely tax brackets and calculate the extra taxes paid on the imputed income and lost pre-tax savings from step two.

Estimating the number of people paying equal benefits tax

We have estimated the percentage of people in same-sex and different-sex couples who currently have health insurance from their partner's employer. In the Current Population Survey, 3.2 percent of men in same-sex couples, 4.2 percent of women in same-sex couples, and 1.7 percent of people in unmarried different-sex couples are covered by DPBs.¹⁸

We apply these percentages to the U.S. Census 2000 calculation of the number of unmarried partner couples to estimate a total number of individuals who receive DPBs.¹⁹ Combining the Current Population Survey and Census figures in this way, we estimate that a total of 210,000 people currently get taxable partner benefits. Of that total, 79 percent are people in different-sex unmarried partner couples, and 21 percent are people in same-sex couples.

Some of those individuals have children, which will influence their health insurance costs and plan choices. Based on the Census data, we estimate that 77,000 of those individuals have children under 18, while 133,000 have no children under 18 living in their homes.

Note that these estimates overstate the number of people currently paying taxes, since partner benefits are not taxable if the partner qualifies as a taxpayer's dependent under Internal Revenue Code Section 152. In general, to qualify as a dependent of a taxpayer, a domestic partner would have to live all year in the taxpayer's household, receive more than half of his or her support from the taxpayer, and meet the IRS citizenship/residency test. Furthermore, the relationship with the taxpayer cannot be "in violation of local law."

Unfortunately, we do not know how many of the 210,000 might qualify as dependents. We can estimate the number of dependents from the proportion of couples in which one partner participates in the labor force but the other does not—in those cases, the nonparticipating partner is likely to rely on the other for meeting basic needs.

We assume that those partners would be considered “dependent” under IRS rules. In the Current Population Survey 9.2 percent of men and 10.1 percent of women in same-sex couples are in this situation, while 23.4 percent of different-sex unmarried couples have this labor force configuration.

After adjusting the earlier figure to remove likely dependents, we estimate that 106,000 individuals without children and 60,500 people with children are likely to be paying taxes on their domestic partner benefits. Because this assumption might overstate the number of legal tax dependents, we also present figures below that do not make this assumption.

Estimating imputed income

People receiving domestic partner benefits for a non-dependent partner must pay taxes on the imputed income they are receiving from their employers in the form of health care benefits. They are also unable to pay the employee share of partner benefits with pre-tax dollars, which also increases their taxes compared with married couples. As noted earlier, the value of health care benefits provided to a legal different-sex spouse is not considered taxable income.

The IRS does not provide explicit guidance on how to value partner benefits.²⁰ One common method of valuing the imputed income measures the increased employer contribution when an employee signs up a partner. Employer plans typically have two or more tiers of coverage. Plans often include a tier for a single employee, a different tier for an employee and one other person (“employee-plus-one” or “plus-one”), and a third tier for a family.

Premiums rise across tiers as more people are covered. The employer contribution to the premium also usually rises as an employee with a partner moves from his or her initial base tier to the plus-one or family tier. That increase in employer contribution constitutes the imputed income that employees must then report to the IRS as taxable income under this method of calculation.

The imputed income of an employee will depend on the tier that the employee starts in and the tier that the employee ends up in after signing up a partner and, in some cases, the partner’s children. The employee might have children of his or her own, in which case the employee starts in the employee-plus-one or family tier.

Limitations in available data mean that we do not know how families are distributed across the nine different possible combinations of family configurations (each partner with zero, one, or two or more children). We know the proportion of unmarried partner households with a child, though, and it seems reasonable to assume that half of those children are the legal children of the householder who are already covered by the employee’s plan, and half are the children of the partner and are not initially covered by the employee’s plan. As a result, we assume that:

- Imputed income for childless couples is the difference between individual and plus-one coverage
- Imputed income for half of couples with children is the difference between individual and family coverage
- Imputed income for the other half of couples with children is the difference between plus-one and family coverage.

Two sources of information on typical health care plan premiums provide similar estimates of the difference in cost between individual and family plans. The 2005 Medical Expenditure Panel Survey Insurance Component found that the average premium for individual coverage was \$3,991, while the average family premium was \$10,728. The difference between the two plans was \$6,737, and employers paid \$4,875 of that difference, on average.²¹ Employees paid the rest of the difference.

A 2006 survey of employers by the Kaiser Family Foundation found that the average premium for a single employee was \$4,242, increasing to \$11,480 for a family, for a difference of \$7,238. Employers paid \$4,892 of that increase, a figure comparable to the Medical Expenditure Panel Survey figure.

The MEPS study also looked at employee-plus-one options, finding that the typical premium increase was \$3,680 when moving up from the single tier, with employers paying \$2,644. Because the MEPS study offers all of the imputed income figures that we need, we focus on those values, presented in Table 2. We use past rates of health care cost increases (7 percent per year from 2004 to 2005) to inflate those 2005 values into 2007 dollars. The part of the premium paid by the employee is used to calculate the potential savings from paying with pre-tax dollars.

TABLE 2: IMPUTED INCOME FOR RECIPIENTS OF DOMESTIC PARTNER BENEFITS		
TYPE OF FAMILY	MOVEMENT ACROSS TIERS	IMPUTED INCOME
Childless couples	From individual to plus-one	\$3,027
Half of couples with children	From individual to family	\$5,581
Half of couples with children	From plus-one to family	\$2,554

Source: Calculations from findings of the Medical Expenditure Panel Survey.

Estimating the tax rate on the value of partner benefits

The tax rate paid by employees depends on their tax brackets, which in turn depend on their incomes. Employees whose highest tax rate is 10 percent will pay 10 percent of the value of partner benefits in additional taxes, whereas those with higher incomes will have higher tax rates. For example, using the imputed income values in Table 2, an

employee who has a partner but no children would pay additional taxes of 10 percent of the imputed income of \$3,027, or \$303. An employee whose income puts him or her in the 33% bracket, however, would pay \$1,009 in additional taxes.

To calculate the total taxes paid and the average taxes paid by a DPB recipient, we need to put the employees in the appropriate tax brackets and filing statuses. First, we assume that DPB recipients without children use the single filing status, and DPB recipients with children file as heads of household. Next, we use IRS figures on how many taxpayers paid a particular tax rate in 2005, the most recent year available, to figure out how many DPB recipients are in each tax bracket.

We assume, for instance, that if 25 percent of all taxpayers filing as single are in the 10 percent tax bracket, then 25 percent of DPB recipients without children are in the 10 percent tax bracket. These marginal tax rates associated with each bracket have not changed since 2005. The income figures defining the tax brackets have changed, but those changes are not likely to have dramatically changed the proportion of people in each tax bracket since both incomes and tax brackets are subject to inflation.

We use IRS statistics that show the proportion of taxpayers who pay each possible rate as their highest rate.²² We adjust those statistics to take out people whose highest rate was a capital gains tax rate. Unfortunately, when a taxpayer pays a capital gains tax rate that is higher than the regular income tax rate, the IRS only publicly reports the rate on capital gains. When the highest rate is paid on capital gains, it is possible that the taxpayer would pay a lower rate on earnings, so our estimate would be too high.

To focus as closely as possible on the rates paid by those who have wage and salary income (which is how the value of DPBs is taxed), we first remove the 5 percent or so of taxpayers who are in categories that indicate that those taxpayers would not have earnings income or that the forms were filed on behalf of dependents who have income; and then we remove those whose highest rate was a capital gains rate.

Once we allocate the DPB recipients across the tax brackets, it is a simple matter to calculate the income tax on the imputed income (the tax rate times the value from Table 2) and then to multiply the tax on benefits by the number of people in the bracket to get total taxes paid. To calculate the additional FICA tax, we assume that 6 percent of taxpayers are over the maximum taxable earnings of \$97,500 in 2007, so they do not pay the 6.2 percent Social Security tax above this threshold but will still pay the 1.45 percent Medicare tax.

For 94 percent of taxpayers, we simply multiply total taxable income by 15.3 percent, which combines the employer and employee contributions.²³ We perform similar calculations on the employee portion to estimate the lost savings available if paying the employee share with pre-tax dollars.

TABLE 3: TOTAL TAX PAYMENTS BY PARTNER BENEFIT RECIPIENTS AND EMPLOYERS

	ALL DPB RECIPIENTS	DBB RECIPIENTS MINUS DEPENDENT PARTNERS
<i>Taxes on imputed income</i>		
Income tax	\$109,663,902	\$87,105,631
Payroll tax	\$104,113,696	\$82,653,366
Employee	\$52,056,848	\$41,326,683
Employer	\$52,056,848	\$41,326,683
SUBTOTAL	\$213,777,598	\$169,758,998
<i>Loss of savings from paying with pre-tax dollars</i>		
Income tax	\$42,377,183	\$33,663,939
Payroll tax	\$40,178,203	\$31,900,311
Employee	\$20,089,101	\$15,950,156
Employer	\$20,089,101	\$15,950,156
SUBTOTAL	\$82,555,386	\$65,564,250
TOTAL	\$296,332,984	\$235,323,248

Source: Author's calculations.

Table 3 presents the totals. Column (A) shows taxes paid for all DPB recipients. Column (B) gives the totals after taking out presumed dependents, which constitutes our best estimate. Accordingly, we estimate that the total extra taxes paid on domestic partner benefits are between \$235 million and \$296 million per year, with \$235 million as the preferred estimate, since it takes into account the highest estimate of the number of dependents covered.

Acknowledgements

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About the Author

M. V. Lee Badgett is the research director at the Williams Institute. She is also the director of the Center for Public Policy and Administration, and Associate Professor of economics at the University of Massachusetts Amherst. Her book, *Money, Myths, and Change: The Economic Lives of Lesbians and Gay Men* (University of Chicago Press) presents her ground-breaking work on sexual orientation discrimination and family policy. She is currently working on a new book asking whether same-sex marriage will change marriage or change GLB people, drawing on the U.S. and European experiences with same-sex marriage.

Endnotes

- 1 Carmen DeNavas-Walt, Bernadette D. Proctor, and Jessica Smith, "Income, Poverty, and Health Insurance Coverage in the United States: 2006," U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau, August 2007, Table C-1, p. 58, available at: <http://www.census.gov/prod/2007pubs/p60-233.pdf>, last accessed Nov. 13, 2007.
- 2 The Kaiser Family Foundation and Health Research and Education Trust, "Employer Health Benefits: 2007 Annual Survey" (2007), available at: <http://www.kff.org/insurance/7672/upload/EHBS-2007-Full-Report-PDF.pdf>, last accessed Nov. 14, 2007.
- 3 Calculated from figures in 2007 Kaiser Family Foundation survey, especially Exhibit 2.7, p. 37.
- 4 The Kaiser Family Foundation and Health Research and Education Trust, "Employer Health Benefits."
- 5 Human Rights Campaign, "The State of the Workplace for Gay, Lesbian, Bisexual and Transgender Americans, 2006-2007," available at: www.hrc.org, last accessed 7/25/07.
- 6 M. V. Lee Badgett, *Money, Myths, and Change: The Economic Lives of Lesbians and Gay Men*, (Chicago: University of Chicago Press, 2001).
- 7 Michael A. Ash and M. V. Lee Badgett, "Separate and Unequal: The Effect of Unequal Access to Employment-Based Health Insurance on Same-Sex and Different-Sex Couples," *Contemporary Economic Policy*, Vol. 24, No. 4, October 2006, pp. 582-599.
- 8 Gary J. Gates, "Geographic Trends Among Same-Sex Couples in the U.S. Census and the American Community Survey," The Williams Institute, UCLA School of Law, November 2007. Dr. Gates also provided unpublished counts of different-sex couples in Figure 2.
- 9 Ibid.
- 10 Tavia Simmons and Martin O'Connell, "Married Couple and Unmarried-Partner Households," Census 2000 Special Reports, CENSR-5, February 2003, p. 9.
- 11 Ash and Badgett, "Separate and Unequal." See also Julia E. Heck, Randall L. Sell, and Sherri S. Gorin, "Health Care Access Among Individuals Involved in Same-Sex Relationships," *American Journal of Public Health*, Vol. 96, No. 6, 2006, pp. 1111-1118.
- 12 Ash and Badgett, "Separate and Unequal," p. 596.
- 13 See, for example, IRS Private Letter Ruling 200108010, Nov. 17, 2000.
- 14 See IRC Section 152. In general, to qualify as a dependent of a taxpayer, a domestic partner would have to live all year in the taxpayer's household, receive more than half of his or her support from the taxpayer, and meet the IRS citizenship/residency test. Furthermore, the relationship with the taxpayer cannot be "in violation of local law."
- 15 Based on an average tax payment of \$9,489 calculated for 2005 using Tax Policy Center data on Modified Taxable Income for people filing as single, available at: www.taxpolicycenter.org/taxfacts/displayafact.cfm?Docid=381, last accessed Nov. 14, 2007. This value was inflated to 2007 dollars.
- 16 These estimates are adjusted for the fact that some partners would be considered dependents, as discussed in the appendix.
- 17 Office of Management and Budget, "Analytical Perspectives: Budget of the United States Government, Fiscal Year 2008," (Washington: U.S. Government Printing Office, 2007), p. 289.
- 18 Ash and Badgett, "Separate and Unequal," p. 587.
- 19 Simmons and O'Connell, p. 2, Table 1.
- 20 IRS Private Letter Ruling 200108010, Nov. 17, 2000.
- 21 James M. Branscome and Beth Levin Crimmell, "Employer-Sponsored Single, Employee-Plus-One, and Family Health Insurance Coverage: Selection and Cost, 2005," Agency for Healthcare Research and Quality, MEPS Statistical Brief #175, July 2007.
- 22 The 2005 data are from the Internal Revenue Service. "SOI Tax Stats," available at: <http://www.irs.gov/pub/irs-soi/05in34tr.xls>, last accessed 11/13/07. For explanations, see Kyle Mudry and Justin Bryan, "Individual Income Tax Rates and Shares, 2004," IRS, 2007.
- 23 Since 1983, approximately 94% of individuals have had earnings below the Social Security earnings threshold. Social Security Administration, "Annual Statistical Supplement to the Social Security Bulletin, 2006," SSA Publication No. 13-11700, June 2007, Table 4.B4.



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