TAXING WEALTH: A COMPARATIVE ANALYSIS OF NATIONAL WEALTH TAXES AND HOW A FEDERAL WEALTH TAX CAN OVERCOME ADMINISTRATIVE CHALLENGES

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I. INTRODUCTION

A national wealth tax has attracted a lot of attention in recent years due to soaring economic inequality in the United States. In 2019,

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the top 10% of families by net worth in the United States—about 12.9 million families—owned 76% of total household wealth.[1] Furthermore, wealthier individuals and families in the United States pay relatively low percentages of their wealth in taxes compared to taxpayers with less income and wealth.[2] Wealthy individuals and families are able to avoid or delay payment of other taxes, like the income tax, because they borrow against their untaxed wealth.[3] The majority of federal tax revenues come from payroll taxes and income taxes, which, since there is no wealth tax, have to be substantial to pay for government spending.[4] A wealth tax is a tax on a person's net worth, which is the value of their assets minus their debts. Payroll taxes brought in 1.3 trillion U.S. dollars ($) in national revenue during 2021, about 5.9% of GDP, and over 30% of total federal tax revenue.[5] Federal taxes fall heavily on earned income, so that those with more wealth disproportionately pay less tax relative to their wealth, thus eroding the progressive taxation system in this country.[6]

A wealth tax targeting the wealthiest individuals and families in the United States would have a positive impact on the currently unequal distribution of wealth. By annually taxing wealth at greater levels, the United States would be able to render the tax system more progressive by making wealthier individuals and households pay more into the tax system than they currently do.[7] A progressive wealth tax

1 Ana Hernández Kent, Lowell R. Ricketts & Ray Boshara, *What Wealth Inequality in America Looks Like: Key Facts & Figures*, FED. RSRV. BANK OF ST. LOUIS (Aug. 14, 2019), https://www.stlouisfed.org/open-vault/2019/august/wealth-inequality-in-america-facts-figures [https://perma.cc/6PS4-BS7L].

2 *See* Jesse Eisinger, Jeff Ernsthausen & Paul Kiel, *The Secret IRS Files: Trove of Never-Before-Seen Records Reveal How the Wealthiest Avoid Income Tax*, PROPUBLICA (June 8, 2021, 5:00 AM), https://www.propublica.org/article/the-secret-irs-files-trove-of-never-before-seen-records-reveal-how-the-wealthiest-avoid-income-tax [https://perma.cc/H56M-4E5V].

3 Edward J. McCaffery, *Taxing Wealth Seriously*, 70 TAX L. REV. 305, 306 (2017).

4 *See generally* INTERNAL REVENUE SERVS., DATA BOOK (2022), https://www.irs.gov/pub/irs-pdf/p55b.pdf [https://perma.cc/ZTL7-DJQC].

5 *Budget and Economic Data*, CONG. BUDGET OFF., https://www.cbo.gov/data/budget-economic-data [https://perma.cc/T3ML-J97B] (last visited Oct. 20, 2022).

6 EMMANUEL SAEZ & GABRIEL ZUCMAN, THE TRIUMPH OF INJUSTICE: HOW THE RICH DODGE TAXES AND HOW TO MAKE THEM PAY 26 (2019).

7 Letter from Emmanuel Saez & Gabriel Zucman, Professors of Economics, University of California, to Elizabeth Warren, Senator, United States Senate (Apr. 8, 2019) [hereinafter Letter from Emmanuel Saez & Gabriel Zucman to Elizabeth

is needed because the current income tax does not sufficiently reach the massive amount of assets owned by the United States' wealthiest families. While the current income tax taxes some realized income from wealth, it does not apply to unrealized gains and other assets owned by the wealthiest individuals and families. This Note argues for a progressive federal wealth tax that will target the wealthiest taxpayers and that the revenue from this tax should be directed towards specific government spending programs for healthcare or retirement.

This Note contributes to the literature in two ways. First, this Note offers a comparative examination of international wealth tax policies. This Note examines the wealth tax policies of Spain and Switzerland and addresses the challenges and critiques of the wealth tax policies in those countries. Second, this Note analyzes a possible federal wealth tax in the United States, using the wealth tax policies in other countries as guidance. In particular, this Note addresses the administrative challenges and issues experienced by other countries. This Note applies lessons from those administrative issues to answer federal wealth tax critiques. This Note shows that multiple supposed administrative challenges to a federal wealth tax can be remedied with appropriate legal and policy decisions.

The Note is laid out as follows. Section II discusses different federal wealth tax policies by exploring current proposals for a wealth tax in the United States and addressing features that make a wealth tax desirable. Section III surveys wealth taxes in other countries and addresses the successes and difficulties of those tax systems. Section IV analyzes critiques of a federal wealth tax by addressing concerns over enforcement and evasion by considering wealth tax policies in other countries. Section V concludes.

II. WEALTH TAX POLICIES IN THE UNITED STATES

What type of federal wealth tax can the United States implement to address the economic impacts of wealth inequality? This section will explore current proposals for a wealth tax in the United States, including proposals made by U.S. politicians who have already introduced wealth tax legislation. Other scholars have advocated for even higher wealth tax plans in the United States, including rates as high as twenty to fifty percent of net wealth. This section will explore

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Warren], https://www.warren.senate.gov/imo/media/doc/Wealth%20Tax%20Revenue%20Estimates%20by%20Saez%20and%20Zucman%20-%20Feb%2024%2020211.pdf [https://perma.cc/MF2Q-7HKC].

both pending wealth tax legislation and several alternative federal wealth tax proposals. It will then briefly address some of the constitutional concerns raised by these wealth tax proposals. The section will conclude by advocating for the creation of a targeted federal wealth tax in the United States and discussing some of the features a wealth tax should incorporate in order to be implemented successfully.

A. Ultra-Millionaire Tax Act

Several wealth tax proposals have entered the United States' political discourse in the past few years. During the 2020 presidential election, two candidates in the Democratic Party's primary released wealth tax proposals as part of their political platforms. U.S. Senator Elizabeth Warren advocated for an Ultra-Millionaire tax.[8] Her progressive wealth tax plan would apply to families with net wealth over $50 million,[9] and was expected to raise $3 trillion in tax revenue over ten years.[10] Similarly, U.S. Senator Bernie Sanders proposed a progressive wealth tax during his presidential campaign that would apply to wealthy taxpayers.[11] Senator Sanders' plan included an even lower income threshold than Senator Warren's and was expected to bring in more tax revenue over a ten-year period.[12] In early 2021, both Senators, along with other Democrats in Congress, sponsored legislation that would create a three percent annual tax on wealth over $1 billion and a two percent annual tax on wealth over $50 million.[13]

As income and wealth inequality soar in the United States, congressmembers have begun advocating for a nationwide progressive wealth tax. Currently, no federal wealth tax exists in the United

8 *Ultra-Millionaire Tax*, WARREN FOR SENATE, https://elizabethwarren.com/plans/ultra-millionaire-tax [https://perma.cc/AT9B-6PQU] (last visited Oct. 19, 2022).

9 *Id.*

10 Berkeley Lovelace Jr., *Elizabeth Warren's Tax Plan Eliminates Any Incentive to Invest, Wealth Tax Pioneer Says*, CNBC (Nov. 8, 2019, 5:17 PM), https://www.cnbc.com/2019/11/08/warrens-tax-plan-eliminates-any-incentive-to-invest-wealth-tax-pioneer.html [https://perma.cc/U799-A9YC].

11 *Tax on Extreme Wealth*, BERNIE, https://berniesanders.com/issues/tax-extreme-wealth/ [https://perma.cc/RF3J-USM9] (last visited Sept. 14, 2023).

12 *Id.* (saying that the wealth tax applies to net worth over $32 million).

13 Greg Iacurci, *Elizabeth Warren, Bernie Sanders Propose 3% Wealth Tax on Billionaires*, CNBC, https://www.cnbc.com/2021/03/01/elizabeth-warren-bernie-sanders-propose-3percent-wealth-tax-on-billionaires.html [https://perma.cc/N7SK-JEEV] (Mar. 2, 2021, 10:47 AM).

States so the Ultra-Millionaire Tax Act would be the first of its kind.[14] The Act would apply to household net wealth greater than $50 million.[15] Ten Democratic congressmembers co-sponsored this proposed act, including eight U.S. Senators and two members of the House of Representatives.[16] All are Democrats.[17] The Ultra-Millionaire tax is expected to raise $3 trillion in revenue over ten years.[18] Furthermore, the tax would only impact about 75,000 families in the United States.[19] The aim of this new wealth tax is to invest tax revenue "in child care and early education, K-12, [and] infrastructure."[20] The proposed wealth tax was projected to increase the tax burden for the top 0.1% of wealth-holders by increasing their total tax burdens from 3.2% to 4.3%.[21] The Ultra-Millionaire Tax Act, however, is not expected to become law during the 118th Congress because Democrats hold the Senate with a slim majority and Republicans control the House.[22]

B. Other Federal Wealth Tax Proposals

In addition to the Ultra-Millionaire Tax Act, other politicians have proposed different federal wealth tax policies for the United States. Many of these proposed wealth tax plans include lower wealth thresholds or even higher marginal tax rates on wealth. For instance, Edward Wolff, a wealth tax pioneer, advocated for a wealth tax in the United States in the 1990s.[23] Wolff's wealth tax plan now advocates for lower marginal tax rates of 0.03% to 0.05%.[24] The 0.05% rate would apply to wealth over $200,000, while the 0.03% rate would apply to wealth over $2.5 million.[25] Other proposals call for higher

14 *Id.*

15 *Id.*

16 *Id.*

17 *Id.*

18 *Id.*

19 Letter from Emmanuel Saez & Gabriel Zucman to Elizabeth Warren, *supra* note 7.

20 Press Release, Elizabeth Warren, Warren, Jayapal, Boyle Introduce Ultra-Millionaire Tax on Fortunes over $50 Million (Mar. 1, 2021), https://www.warren.senate.gov/newsroom/press-releases/warren-jayapal-boyle-introduce-ultra-millionaire-tax-on-fortunes-over-50-million [https://perma.cc/BF8F-A99Q].

21 Letter from Emmanuel Saez & Gabriel Zucman to Elizabeth Warren, *supra* note 7.

22 Lovelace, *supra* note 10.

23 *Id.*

24 *Id.*

25 *Id.*

wealth tax rates, such as a one-time wealth tax of 20% to 50%.[26] French economist Thomas Piketty has proposed a global wealth tax that would apply to the United States.[27]

Some propose a mark-to-market system, which they claim is a more fair tax system.[28] Currently, the federal income tax only taxes gains on property when the taxpayer realizes those gains, such as through the disposition of the property.[29] Therefore, a taxpayer who owns property that increases in value over time will not have to include those gains in their tax returns each year they hold onto that property. The taxpayer can defer income tax liability on gains until they sell the property, thereby reaping the benefits of the deferral advantage.[30] In some cases, a taxpayer will avoid ever paying taxes on their property gains if they do not sell the property during their lifetime. The inheritors of that property will use a stepped-up basis when calculating capital gains, and therefore only pay taxes on gains from the time they inherited the property to the time they sell.[31] Therefore, all gains earned on the property before its disposition are untaxed. Under a mark-to-market system, a taxpayer will owe taxes on gains each year they own the property, whether or not they realize those gains in that taxable year. However, the taxpayer will be able to defer payment of those taxes until they sell the property, and instead pay interest on their deferred payments.[32]

C. Constitutional Concerns

Congress could pass a wealth tax under Congress's broad power to tax under Article I of the U.S. Constitution.[33] However, some critics dispute this proposition because Congress's taxing power is limited and requires direct taxes to be apportioned among the states by

26 Heinz Klug, *Democracy, Inequality, and the Need for a Social Solidarity Tax*, 31 S. CAL. REV. L. & SOC. JUST. 179, 237 (2020).

27 THOMAS PIKETTY, CAPITAL IN THE TWENTY-FIRST CENTURY 651 (Arthur Goldhammer trans., 2014).

28 Scott Eastman & Chad Qian, *Evaluating Mark-to-Market Taxation of Capital Gains*, TAX FOUND. (Dec. 17, 2019), https://taxfoundation.org/mark-to-market-taxation-of-capital-gains/ [https://perma.cc/ZP2A-WE9T].

29 *Id.*

30 *Id.*

31 *Id.*

32 *Id.*

33 NOAH R. FELDMAN & KATHLEEN M. SULLIVAN, CONSTITUTIONAL LAW (20th ed. 2019).

population.[34] Since personal wealth is not uniformly distributed across the country, a federal wealth tax would not be apportioned evenly among the several states.[35] The federal income tax faced the same issue. In 1895, the Supreme Court ruled in *Pollock v. Farmers' Loan & Trust Co.* that the income tax was unconstitutional, since it was a direct tax not apportioned among the states according to their populations.[36] In response, U.S. states ratified the Sixteenth Amendment and explicitly gave Congress the power to tax income, overturning *Pollock*.[37] Some scholars argue that another amendment would be needed to authorize a wealth tax.[38] Others, however, argue that a federal wealth tax passed by Congress would be Constitutional even if no amendment authorizes it and it is not proportionately distributed among the states.[39] Professor Calvin H. Johnson argues that *Pollock* was a wrongly decided case because the Court misinterpreted the apportionment clause.[40] Professor Johnson argues, "The rules regarding direct taxation were never intended as an impediment on the taxing power of the United States."[41] Professor Johnson and other scholars argue that the Supreme Court recognized its error in *Pollock* in subsequent decisions that upheld federal taxes not apportioned among the several states according to their populations.[42] Ultimately, the constitutionality of a federal wealth tax will be left to the Supreme Court, but there are good arguments for finding a wealth tax constitutional.[43]

34 U.S. CONST. art. I, § 2, cl. 3.

35 Calvin H. Johnson & John T. Kipp, *A Wealth Tax Is Constitutional*, AM. BAR ASS'N (Aug. 18, 2019), https://www.americanbar.org/groups/taxation/publications/abataxtimes_home/19aug/19aug-pp-johnson-a-wealth-tax-is-constitutional/ [https://perma.cc/9NHJ-PRHD].

36 Pollock v. Farmers' Loan & Trust Co., 158 U.S. 601, 637 (1895).

37 Brushaber v. Union Pac. R.R. Co., 240 U.S. 1, 11 (1916).

38 Joe Bishop-Henchman, *Is a Wealth Tax Constitutional?*, NAT'L TAXPAYERS UNION FOUND. (Oct. 25, 2021), https://www.ntu.org/foundation/detail/is-a-wealth-tax-constitutional [https://perma.cc/88SG-S4XX].

39 Johnson & Kipp, *supra* note 35.

40 *Id.*

41 *Id.*

42 Letter from Ari Glogower, Associate Professor of Law, The Ohio State University Moritz College of Law, to Elizabeth Warren, Senator, United States Senate (Feb. 25, 2021), https://www.warren.senate.gov/imo/media/doc/Wealth%20Tax%20Constitutionality%20Letter%20-%20Glogower%20Et%20Al.pdf [https://perma.cc/ZG6T-E7ZN].

43 Daniel Shaviro, *Would an Unapportioned U.S. Federal Wealth Tax Be Constitutional, and What Does That Mean?* 1 (N.Y.U. L. & Econ. Rsch., Paper No. 23-25, 2022), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4377466 [https://perma.cc/7MSP-7BP9].

D. A Targeted Wealth Tax

The federal government should implement a targeted wealth tax in the United States and use the tax revenue to directly benefit social spending programs. There are two benefits to this type of wealth tax. First, the targeted nature of the wealth tax will ensure that only the wealthiest taxpayers will be subject to the tax; the majority of taxpayers with far fewer assets will not be burdened by the tax. Second, a targeted wealth tax will likely be popular because it will raise revenue for underfunded spending programs that benefit many voters.

Taxes should target the wealthiest taxpayers because they have the greatest ability to pay. Due to income and wealth inequality, the wealthiest individuals and families in the United States have amassed a disproportionally large slice of the total wealth in the country.[44] In 2019, the wealthiest 0.1% of families paid about 3.2% of their wealth in federal, state, and local taxes.[45] They paid a much lower rate than the bottom 99% of families, who paid 7.2% of their wealth in federal, state, and local taxes.[46] Under the Ultra-Millionaire Tax Act, economists estimate that a progressive wealth tax would increase the tax burden of the wealthiest 0.1% of families to 4.3% of their wealth.[47] Even under such a progressive wealth tax, the wealthiest households would still have a lower tax burden than the bottom 99% of wealthholders.[48] Therefore, the wealthiest taxpayers have a greater ability to pay and the wealth tax should target them.

The government should use revenue from a progressive wealth tax to fund popular spending programs for two reasons. First, taxpayers and voters are more likely to support a wealth tax when they know where the money is going. Polling shows that federal spending programs like Social Security, Medicare, and Medicaid are supported by most Americans.[49] Ensuring that wealth tax revenue is directed

44 Kent et al., *supra* note 1.

45 Letter from Emmanuel Saez & Gabriel Zucman to Elizabeth Warren, *supra* note 7, at 7.

46 *Id.*

47 *Id.*

48 *Id.*

49 John Waggoner, *AARP Poll Finds Near-Universal Support for Social Security After 85 Years*, AARP (Aug. 14, 2020), https://www.aarp.org/retirement/social-security/info-2020/aarp-poll-finds-near-universal-support.html [https://perma.cc/BW2J-SU2V]; Dylan Scott, *Poll: Medicaid is Overwhelmingly Popular, even as Trump Looks to Cut It*, VOX (Mar. 1, 2018, 10:20 AM), https://www.vox.com/policy-and-politics/2018/3/1/17066578/medicaid-work-requirements-poll-kff [https://perma.cc/9GDQ-N3RE]; *see generally* Mollyann

towards those programs will gain more support from voters. Second, a wealth tax provides a better revenue source for popular spending programs than regressive payroll taxes.[50] Currently, popular spending programs like Social Security and Medicaid are funded by payroll taxes, which are regressive because "the highest average rate [falls] on Americans with the lowest incomes."[51] Replacing current payroll taxes with a wealth tax will make the overall tax system more progressive and ensure that important spending programs are well-funded.

III. WEALTH TAXES IN OTHER COUNTRIES

European countries have a rich history of wealth taxation laws and policies.[52] Three European countries currently have a personal wealth tax on most assets: Norway, Spain, and Switzerland.[53] France historically had a personal wealth tax, but it has repealed much of the personal wealth tax in recent years.[54] Belgium's wealth tax is more limited and applies to far fewer assets than the wealth taxes in Norway, Spain, and Switzerland. This section discusses the structure of these nations' wealth taxes and some issues that have arisen in their implementation.

A. Norway

Norway's wealth tax has existed since 1892.[55] Norwegian wealth taxes are imposed by both the national and municipal

Brodie, Elizabeth C. Hamel & Mira Norton, *Medicare as Reflected in Public Opinion*, 39 J. AM. SOC'Y AGING 134 (2015), kff.org/wp-content/uploads/2015/06/generations-medicare-as-reflected-in-public-opinion-brodie-et-al.pdf [https://perma.cc/BF3M-5C4K].

50 Robert Bellafiore, *New Report Shows the Burdens of Payroll and Income Taxes*, TAX FOUND. (Mar. 26, 2019), https://taxfoundation.org/payroll-income-tax-burden/ [https://perma.cc/J4Y2-ZUZY].

51 *Id.*

52 Julian Limberg & Laura Seelkopf, *The Historical Origins of Wealth Taxation*, 29 J. EUR. PUB. POL'Y 670, 672 (2022).

53 Chris Edwards, *Why Europe Axed Its Wealth Taxes*, CATO INST. (Mar. 27, 2019), https://www.cato.org/commentary/why-europe-axed-its-wealth-taxes [https://perma.cc/AGC8-GMBK].

54 *Id.*

55 Joseph Zeballos-Roig, *4 European Countries Still Have a Wealth Tax. Here's How Much Success They've Each Had*, BUSINESS INSIDER (Nov. 7, 2019, 8:51 AM), https://www.businessinsider.com/4-european-countries-wealth-tax-spain-norway-switzerland-belgium-2019-11 [https://perma.cc/C7WC-DKRU].

governments.[56] The wealth taxes implemented in 1892 applied to wealth in excess of $174,000 for individuals and $348,000 for married couples.[57] The municipal governments imposed a wealth tax rate of 0.7%.[58] The central government imposed a wealth tax rate of 0.25%.[59] Both wealth taxes combined for a total wealth tax rate of 0.95% for most taxpayers who exceeded the wealth thresholds.[60] In 2022, Norway increased the marginal wealth tax rate for the wealthiest taxpayers.[61] The new central government wealth tax rate is 0.4% for wealth in excess of $1.8 million for individuals and $3.6 million for married couples.[62]

Over the last seven decades, Norway's wealth tax has made up a consistent portion of total tax revenue. According to the Organization for Economic Cooperation and Development ("OECD"), Norway's wealth tax constituted about 1.37% of Norway's total tax revenue in 2020.[63] Between 1965 and 2020, Norway's annual percentage of tax revenue derived from the wealth tax has mostly been between 1 and 2%.[64] The wealth tax only exceeded 2% of total tax revenue in 1965, when it constituted 2.02% of Norway's total tax revenue.[65] Over the last decade, Norway's annual wealth tax constituted between 1.17% and 1.5% of its total tax revenue.[66] In 2020, Norway's wealth tax made up 1.4% of its total tax revenue.[67]

Overall, Norway's wealth tax system appears stable. Over the last six decades, Norway has drawn in a consistent amount of wealth tax revenue as a percentage of total tax revenue.[68] The wealth tax applies to many Norwegians;[69] the average wealth per household in

56 *Id.*

57 *Id.*

58 *Id.*

59 *Norway: Individual - Other Taxes*, PwC, https://taxsummaries.pwc.com/norway/individual/other-taxes [https://perma.cc/YN6Q-G2TF] (last visited Oct. 20, 2022).

60 *Id.*

61 *See id.*

62 *Id.*

63 *Revenue Statistics - OECD Countries: Comparative Tables*, OECD.STAT, https://stats.oecd.org/index.aspx?DataSetCode=REV [https://perma.cc/W7V6-QTZF] (last visited Oct. 20, 2022).

64 *Id.*

65 *Id.*

66 *Id.*

67 *Id.*

68 *Id.*

69 Zeballos-Roig, *supra* note 55.

Norway is $166,000.[70] At the end of the tax year, all residents of Norway, except foreign students and diplomats, are subject to the wealth tax.[71] Norwegians must pay the wealth tax on all assets they directly own on December 31 of a given year.[72] Norway's tax law subjects all types of assets to the wealth tax, including financial assets such as stocks, housing, and commercial property.[73] All assets, regardless of whether they are located in or outside of Norway, are also subject to the wealth tax.[74] The wealth tax applies to *net* wealth, since Norwegian taxpayers are allowed to offset the value of all their assets by the amount of debt they owe.[75]

Norway applies different valuation rules to different types of assets. The valuation of an asset for the purposes of calculating net wealth depends on the market value of the asset.[76] However, the Norwegian government has adjusted this straightforward valuation method by allowing valuation discounts.[77] Valuation discounts allow taxpayers to reduce the taxable value of certain assets by some percentage of their market value.[78] Conservative governments tend to promote valuation discounts of certain business assets in order to promote capital investment.[79] More left-leaning governments tend to decrease the amount of valuation discounts in order to raise more tax revenue.[80] Valuation discounts may be applied to assets such as real

70 Jon Epland & Mads Ivar Kirkeberg, *Wealth Distribution in Norway: Evidence from a New Register-Based Data Source*, 35 RAPPORTER, Sept. 22, 2012, at 4, 18, https://www.ssb.no/a/english/publikasjoner/pdf/rapp_201235_en/rapp_201235_en.pdf [https://perma.cc/DZW6-D2J7].

71 Bettina Banoun, *Wealth Tax: Norway* 6 (Wealth Tax Comm'n, Background Paper No. 138, 2020), https://www.wealthandpolicy.com/wp/BP138_Countries_Norway.pdf [https://perma.cc/7WFA-CD8N].

72 *Id.* at 4.

73 *Wealth Tax and Valuation Discounts*, THE NORWEGIAN TAX ADMIN., https://www.skatteetaten.no/en/Rates/Wealth-tax/ [https://perma.cc/39GH-52G4] (last visited Oct. 22, 2022).

74 Banoun, *supra* note 71, at 4.

75 *Id.*

76 *Id.*

77 *Id.*

78 *Valuation Discount in Connection with Assessment of Wealth*, THE NORWEGIAN TAX ADMIN., https://www.skatteetaten.no/en/person/taxes/get-the-taxes-right/valuation-discount-in-connection-with-assessment-of-wealth/ [https://perma.cc/FJE2-V69R] (last visited Oct. 22, 2022).

79 *Id.*

80 *Id.*

estate and stock shares.[81] Using valuation discounts, Norwegian taxpayers can reduce the taxable value of their primary home in Norway by 75%.[82] Second homes in Norway are subject to a 5% valuation discount as of 2023, although in past years a 10% discount has applied.[83] Norwegian taxpayers can also reduce the taxable value of their stock shares in companies by 25%.[84] However, in past years, Norwegian taxpayers could reduce the taxable value of their stock shares by as much as 35% to 45%.[85]

Norway's broad wealth tax structure encourages wealthy Norwegian residents to take steps to reduce their wealth tax liability. First, Norway's wealth tax system encourages Norwegian taxpayers to borrow because they will be able to deduct their wealth liabilities from their taxable net wealth.[86] According to household wealth data in Norway, families with more wealth tend to have higher debt accumulation.[87] Norway has attempted to curb borrowing as a means of avoiding tax liability. For example, Norway reduces the value of liability deductions when those liabilities are associated with assets that are eligible for valuation discounts.[88] Second, Norway's wealth tax system encourages Norwegian taxpayers to move their assets out of Norway,[89] since "[d]omestic assets and debt are mostly third-party reported, while assets held abroad are self-reported."[90] While Norwegian taxpayers are generally unable to omit domestic assets from their taxable wealth, they are able to underreport their assets held abroad and thereby decrease their net taxable wealth. This issue is so pervasive that the top 0.1% of wealthy Norwegian taxpayers own 75% of Norwegian wealth hidden overseas.[91] By borrowing more and

81 *Id.*

82 *Id.*

83 *Id.*

84 Banoun, *supra* note 71, at 6.

85 *Valuation Discount in Connection with Assessment of Wealth*, *supra* note 78.

86 Banoun, *supra* note 71, at 11.

87 Marius Alexander Kalleberg Ring, Wealth Taxation and Household Saving: Evidence from Assessment Discontinuities in Norway 16 (Dec. 3, 2020), https://ssrn.com/abstract=3716257 [https://perma.cc/78EU-CVY5] (last revised Sept. 13, 2023).

88 Banoun, *supra* note 71, at 11.

89 Marie Bjørneby, Simen Markussen & Knut Røed, *Does the Wealth Tax Kill Jobs?* 7 (IZA Inst. Labor Econ., Discussion Paper No. 13766, 2020), https://ssrn.com/abstract=3708628 [https://perma.cc/2TE5-8B32].

90 *Id.* at 6.

91 Annette Alstadsæter, Niels Johannesen & Gabriel Zucman, *Tax Evasion and Inequality* 21 (Nat'l Bureau of Econ. Rsch., Working Paper No. 23722, 2017),

underreporting foreign assets, Norwegian taxpayers can reduce their net wealth tax liability.

B. Spain

Spain also has an established wealth tax. In 1977, Spain adopted a wealth tax, which has been applied to personal wealth in almost every year since.[92] Between 2008 and 2011, the Spanish government halted the wealth tax due to the global financial crisis that devastated Spain's economy.[93] However, in 2011 the Spanish government permanently reinstated the national wealth tax.[94] The current wealth tax in Spain applies to individual wealth of more than 700,000 euros (€), about $774,000.[95] Spain's wealth tax is much more progressive than Norway's wealth tax. For example, while Norway has two wealth tax brackets, Spain has eight different brackets.[96] The lowest wealth tax bracket in Spain is taxed 0.2%, while the highest bracket is taxed 3.5%.[97] Many taxpayers in Spain do not have to file wealth tax returns because the tax system only requires that the top 3% of households file wealth tax returns.[98]

The Spanish wealth tax, like the Norwegian wealth tax, also reduces the valuation of certain assets for tax purposes. For example, the Spanish wealth tax allows taxpayers to reduce the taxable value of habitual dwellings they own by €300,000.[99] The values of other financial assets, such as interests in family companies, may also be reduced for tax purposes.[100] In 1994, Spain substantially reformed its wealth tax by declaring that "stocks of corporations where the individual owns at least 15%, or the individual and family own at least 20%, and where the individual is substantially engaged in this business activity

https://www.nber.org/system/files/working_papers/w23772/w23772.pdf [https://perma.cc/QJ58-6ER7].

92 Zeballos-Roig, *supra* note 55.

93 *Id.*

94 *Id.*

95 *Id.*

96 *Spain: Individual - Other Taxes*, PwC, https://taxsummaries.pwc.com/spain/individual/other-taxes [https://perma.cc/MV5J-B6CC] (last visited Oct. 22, 2022).

97 *Id.*

98 Facundo Alvaredo & Emmanuel Saez, *Income and Wealth Concentration in Spain from a Historical and Fiscal Perspective*, 7 J. EUR. ECON. ASS'N 1140, 1144 (2009).

99 *Spain: Individual - Other Taxes*, *supra* note 96.

100 *Id.*

(getting over 50% of his labor and business income from this activity) [are] exempted from the wealth tax."[101] It is argued that this is an "important exemption, due to the prevalence in the Spanish economy of small and medium size companies."[102]

Another important exception to the wealth tax is the exemption of Madrid's residents from the wealth tax.[103] Madrid is the only locality in Spain that has a 100% wealth tax deduction.[104] Therefore, Spanish nationals are incentivized to live in Madrid because it is "the most tax attractive region in which to live."[105] Madrid and other localities can justify the lower wealth tax rates because the national government has given regions the ability to alter tax rates, deductions, and exemption minimums.[106] With lower wealth taxes, regions like Madrid can attract wealthy people and businesses.[107] According to the 2021 Spanish Regional Tax Competitiveness Index, Madrid is the best region in Spain for Spanish nationals to reduce their tax liability.[108] However, the special wealth tax exemptions do not apply to foreign nationals who are subject to the wealth tax.[109] Spain also imposes the wealth tax on non-residents.[110] The wealth tax rates set by the national government of Spain apply to all assets located in Spain and held by foreign nationals.[111] The "wealth tax is levied . . . on Spanish non-residents' goods and rights that are located, may be exercised, or should be complied with in Spain."[112] Foreign nationals must pay the national wealth tax rate "even if they have their Spanish assets located in a region with low or no wealth tax rates such as Madrid."[113] Therefore, foreign nationals have less incentive to live in Madrid or hold assets in Madrid because they will not receive favorable wealth tax treatment.

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101 Alvaredo & Saez, *supra* note 98, at 1157.

102 Alonso Ramallo, *Wealth Tax: Spain* 16, (Wealth Tax Comm'n, Background Paper No. 132, 2020), https://www.wealthandpolicy.com/wp/BP132_Countries_Spain.pdf [https://perma.cc/9LDV-S7FB].

103 Zeballos-Roig, *supra* note 55.

104 Ramallo, *supra* note 102, at 7.

105 *Id.*

106 *Id.*

107 Cristina Enache, *Regional Tax Competition Is Stopping Spain from Becoming Europe's Tax Hell*, TAX FOUND. (Oct. 6, 2021), https://taxfoundation.org/tax-competition-spain-europes-tax-hell/ [https://perma.cc/YTX4-EMR7].

108 *See id.*

109 Ramallo, *supra* note 102, at 7.

110 *Spain: Individual - Other Taxes*, *supra* note 96.

111 Ramallo, *supra* note 102, at 7.

112 *Spain: Individual - Other Taxes*, *supra* note 96.

113 Ramallo, *supra* note 102, at 7.

Like the Norwegian wealth tax, the Spanish wealth tax applies broadly. All regions of Spain can apply the wealth tax if they desire.[114] All assets located in Spain that are owned by foreign individuals are also subject to the wealth tax.[115] Like Norway's wealth tax, Spain's wealth tax is calculated based on worldwide net assets, so Spanish taxpayers can offset the value of their assets by the amount of debt they owe.[116] Similarly, Spanish taxpayers are incentivized to borrow more to reduce their tax liability.[117] However, foreign nationals can only deduct debts borrowed in relation to their assets in Spain from their net taxes.[118] Spain's wealth tax accounts for less than 1% of the total tax revenue in Spain,[119] lower than Norway's wealth tax. Between 1978 and 2020, data from the OECD show that Spain's annual wealth tax revenue accounted for 0.3% to 0.7% of total annual tax receipts.[120] As of 2020, Spain's wealth tax was 0.56% of its total tax revenue, but this is expected to rise in the coming years due to wealth tax increases in 2023 and 2024.[121]

C. Switzerland

Switzerland also has an established wealth tax,[122] which dates to the end of the eighteenth century.[123] In 1848, the newly founded Swiss Federal State fundamentally changed the Swiss tax system and imposed a new wealth tax.[124] During the first half of the twentieth century, the Swiss government modified its laws to levy wealth taxes between 0.25% and 0.35%.[125] The national wealth tax on individuals was abolished in 1959, however.[126] Each of the twenty-six Swiss cantons, which are the provincial states that make up the country, still imposes

114 *Spain: Individual - Other Taxes*, *supra* note 96.

115 *Id.*

116 *Id.*

117 Ramallo, *supra* note 102, at 7.

118 *Id.*

119 Zeballos-Roig, *supra* note 55.

120 *Revenue Statistics - OECD Countries: Comparative Tables*, *supra* note 63.

121 *Spain Agrees on New Asset Tax for Wealthy Residents*, AL JAZEERA (Sept. 29, 2022), https://www.aljazeera.com/news/2022/9/29/spain-agrees-on-new-asset-tax-for-wealthy-residents [https://perma.cc/3PK8-Z8T7].

122 Zeballos-Roig, *supra* note 55.

123 Jean-Blaise Eckert & Lukas Aebi, *Wealth Taxation in Switzerland* 3 (Wealth Tax Comm'n, Background paper no. 133, 2020).

124 *Id.*

125 *Id.*

126 *Id.*

a wealth tax.[127] The rates vary between each canton, with the highest rate being 1% and the lowest rate being 0.3%.[128] Similar to other countries with wealth taxes, Switzerland's wealth tax is progressive.[129] Like the wealth tax rates, the wealth tax threshold varies between cantons; the canton with the highest minimum threshold subjects married couples without children to the wealth tax if their wealth exceeds $251,856, while lowest minimum threshold of any canton for married couples without children is $50,370.[130] Since the wealth thresholds in Switzerland are generally much lower than they are in Norway and Spain, Switzerland's wealth tax impacts a large portion of the middle class in addition to wealthier families.[131]

Like Norway and Spain's wealth tax laws, Switzerland's wealth tax applies broadly to many assets. Each canton in Switzerland levies its wealth tax based on all assets a resident owns, no matter where the asset is located.[132] Swiss taxpayers can also offset the value of their worldwide assets by the amount of their debts, even if the debt is in a foreign territory.[133] However, unlike Norwegian and Spanish wealth taxes, Switzerland does not tax properties held outside the country.[134] Properties located outside of Switzerland are included for determining tax rates but are not subject to taxation.[135] Taxed assets include financial assets such as shares of stocks and bonds and tangible assets such as cars and paintings.[136] Switzerland has been able to successfully calculate tax equity in private businesses using simple formulas.[137]

Switzerland's wealth tax system has been successful on the surface. Switzerland generates more revenue from wealth taxes than

127 Zeballos-Roig, *supra* note 55.

128 *Id.*

129 *Id.*

130 *Id.*

131 Marius Brülhart, Jonathan Gruber, Matthias Krapf & Kurt Schmidheiny, *Tax Wealth: Evidence from Switzerland* 7 (Nat'l Bureau of Econ. Rsch., Working Paper No. 22376, 2016), https://www.nber.org/system/files/working_papers/w22376/w22376.pdf [https://perma.cc/9DQ3-FLSD].

132 *Switzerland: Individual - Other Taxes*, PwC, https://taxsummaries.pwc.com/switzerland/individual/other-taxes [https://perma.cc/88WU-Z2ED] (Jul. 20, 2023).

133 *Id.*

134 *Id.*

135 *Id.*

136 *Id.*

137 Brülhart et al., *supra* note 131, at 7.

other countries with wealth taxes.[138] Switzerland's wealth tax revenue consistently accounts for over 3% of the country's total tax revenue.[139] In 2017, wealth taxes in Switzerland accounted for 3.6% of the nation's total tax revenue.[140]

Switzerland's wealth tax system is far from perfect, however. Many taxpayers in the country evade the wealth tax. Switzerland does not contain an institutional wealth-tracking mechanism;[141] instead, taxpayers report their own total wealth.[142] Switzerland's reliance on self-reporting has led to increased wealth tax evasion and fraud.[143] In Switzerland, a 1% wealth tax lowered reported wealth by 23% to 34%.[144] As wealth tax rates increase, Swiss taxpayers are motivated to underreport some of their taxable assets.[145] Approximately $4.8 billion in tax revenue is lost due to wealthy individuals not reporting wealth moved out of Switzerland.[146]

To curb tax avoidance, Switzerland employs three strategies. The first strategy involves withholding certain types of income throughout the year. For this strategy, the government applies a 35% federal withholding tax to income from all financial assets held by the taxpayer.[147] The withholding primarily applies to interest and dividends that the taxpayer receives from financial institutions.[148] This strategy is effective because the tax authority in Switzerland can directly regulate such financial institutions to ensure accurate

138 Zeballos-Roig, *supra* note 55.

139 *Id.*

140 *Id.*

141 *Id.*

142 *See id.*

143 Emmanuel Saez & Gabriel Zucman, *Progressive Wealth Taxation*, BROOKINGS PAPERS ECON. ACTIVITY, Fall 2019, at 472 (2019), https://www.brookings.edu/wp-content/uploads/2020/10/Saez-Zuchman-final-draft.pdf [https://perma.cc/39U2-RLW6].

144 *Id.*

145 Catherine Bosley, *Swiss Wealth Tax Rakes in Cash as Covid Stokes Global Debate*, BLOOMBERG NEWS (Feb. 16, 2021), https://www.bloomberg.com/news/articles/2021-02-16/swiss-wealth-tax-rakes-in-cash-as-covid-revives-global-debate [[https://perma.cc/ZK2R-M96R].

146 *Switzerland Responsible for $13 Billion in Losses to Tax Evasion Globally*, SWI (Mar. 14, 2021, 1:51 PM), https://www.swissinfo.ch/eng/business/switzerland-responsible-for—13-billion-in-losses-to-tax-evasion-globally/46447156 [https://perma.cc/Y4HP-8YGE].

147 Brülhart et al., *supra* note 131, at 6.

148 *Id.*

withholding.[149] The government employs this strategy to encourage taxpayers to accurately disclose all of their assets at the end of the year. If a taxpayer accurately reports their assets for wealth tax purposes, then Switzerland will return the withheld funds to the taxpayer.[150] Typically, the taxpayer will submit bank statements to verify that assets were reported accurately.[151] One issue with this strategy is that it is most effective with taxpayers whose "combined capital income and wealth tax bills amount to less than" the amount withheld.[152] Otherwise, taxpayers still have reason to underreport their assets in order to avoid a higher tax liability, even if it means losing the money withheld. However, this withholding strategy can still be highly effective due to the large amount withheld, thereby encouraging taxpayers to accurately report their wealth.

Switzerland's second strategy for curbing wealth tax avoidance involves audits of taxpayers who try to underreport their net wealth. In Switzerland, "tax authorities . . . carry out randomized audits and request documentation" when there are inconsistencies in the tax return.[153] The tax authorities can request additional financial information and statements during the auditing process.[154] For example, the tax authorities might request further documentation when there are "changes in wealth holdings that are not evidently compatible with changes in other positions of the tax declaration."[155] If a taxpayer underreports the value of their net assets for the calculation of wealth taxes but uses a higher asset valuation for the calculation deductions in another part of their tax return, then that taxpayer could be audited due to the discrepancy. Tax authorities are also granted ample time to monitor and catch discrepancies. A taxpayer's return can be audited within a five-year period after filing the tax return.[156] Furthermore, the government "can open a special tax procedure up to ten years after the tax period has elapsed . . . if new facts or evidence is brought forward

149 INTERNATIONAL TAX: SWITZERLAND HIGHLIGHTS 2023, DELOITTE (Jan. 2023), https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-switzerlandhighlights-2022.pdf [https://perma.cc/YAZ4-4F93].

150 Brülhart et al., *supra* note 131, at 6.

151 *Id.*

152 *Id.*

153 *Id.* at 7.

154 *Switzerland: Individual - Tax Administration*, PWC, https://taxsummaries.pwc.com/switzerland/individual/tax-administration [https://perma.cc/Z4N9-KNYU] (last reviewed July 20, 2023).

155 Brülhart et al., *supra* note 131, at 7.

156 *Switzerland: Individual - Tax Administration*, *supra* note 154.

that was previously not known to the tax authorities."[157] Therefore, the government has more time to audit and catch taxpayers who may falsely state their net wealth in one year but then claim a drastically different valuation of assets in another year. Increased time for audits could lead to lower tax avoidance overall because taxpayers will not want to risk an audit.

The third strategy that Switzerland uses to curb tax avoidance involves the use of tax breaks to encourage wealthy residents to stay in the country. Switzerland attempts to prevent high-wealth individuals from moving away because the Swiss wealth tax only applies to residents of the country.[158] Therefore, Switzerland offers certain tax breaks designed to incentivize wealthy residents to stay in the country.[159] These tax breaks come in several forms. Switzerland allows some assets to be subject to higher depreciation deductions for wealth tax purposes than for income tax purposes.[160] Furthermore, leased assets are not included for the purposes of wealth taxation.[161] Wealthy residents also do not have to pay wealth taxes on their properties abroad, but the values of those properties are considered for tax rate determination.[162] Additionally, residents of Switzerland do not have to pay wealth taxes on the value of their household goods.[163] Lastly, wealthy residents can subtract their worldwide debts when determining their net wealth for taxation purposes.[164] Overall, these are some valuable tax benefits that Switzerland provides to keep wealthy residents in the country, thus ensuring some stability in its tax base.

D. Additional Countries

Other countries have implemented their own wealth taxes. As many as twelve countries have implemented nationwide wealth taxes, but most were repealed in the last few decades.[165] France and Belgium currently have limited wealth taxes. In 2018, France repealed its broad

157 *Id.*
158 INTERNATIONAL TAX: SWITZERLAND HIGHLIGHTS 2023, *supra* note 149.
159 Saez & Zucman, *supra* note 143, at 475.
160 *Switzerland: Individual - Other Taxes*, *supra* note 132.
161 *Id.*
162 *Id.*
163 *Id.*
164 *Id.*
165 Daniel Bunn, *What the U.S. Can Learn from the Adoption (and Repeal) of Wealth Taxes in the OECD*, TAX FOUND. (Jan. 18, 2022), https://taxfoundation.org/wealth-taxes-in-the-oecd/ [https://perma.cc/Y2HW-LV4L].

net wealth tax[166] and replaced it with a wealth tax that taxes the value of real property-based wealth.[167] French wealth tax rates range from 0.5% to 1.5% of real estate asset value in excess of €1.3 million.[168] France's net wealth tax before 2018 was progressive because it applied to net wealth with a value greater than €700,000.[169] It also exempted certain amounts of properties and assets, similar to the wealth taxes in other countries.[170] In 2014, at its peak, France's wealth tax accounted for 0.55% of all of its tax revenue.[171]

Belgium recently imposed a limited wealth tax on certain assets. Unlike France, which now only taxes the wealth of real property, Belgium's wealth tax targets securities.[172] In 2018 and 2019 only, Belgium enacted a 0.15% tax on securities accounts of individuals with greater than $553,000 in securities holdings.[173] In 2019, the Belgian Constitutional Court removed this wealth tax.[174] Now, the Belgian wealth tax applies a 0.15% tax to securities accounts holding over €1 million in securities.[175]

IV. EVASION AND ENFORCEMENT OF THE WEALTH TAX

Evasion and enforcement are two big issues with any wealth tax implementation. As described in Section II, many taxpayers avoid wealth taxes by either moving their assets out of the country or underreporting their wealth. Wealthy taxpayers have also been able to diminish their net taxable wealth by taking advantage of certain provisions in the tax codes, such as deducting debt and utilizing asset valuation discounts. Additionally, some wealthy taxpayers may try to leave a country with a wealth tax to avoid it. Some countries in Europe,

166 ORG. FOR ECON. CO-OPERATION & DEV., THE ROLE AND DESIGN OF NET WEALTH TAXES IN THE OECD 15 (Apr. 12, 2018), https://www.oecd-ilibrary.org/sites/9789264290303-4-en/index.html [https://perma.cc/57WL-CVQR].

167 Bunn, *supra* note 165.

168 *Id.*

169 *French Wealth Tax Explained in Full*, THE CONNEXION (Feb. 17, 2017, 11:26 AM), https://www.connexionfrance.com/article/Archive/French-wealth-tax-explained-in-full [https://perma.cc/5J8J-G6VR].

170 *Id.*

171 Bunn, *supra* note 165.

172 Zeballos-Roig, *supra* note 55.

173 *Belgium: Individual - Other Taxes*, PWC, https://taxsummaries.pwc.com/belgium/individual/other-taxes [https://perma.cc/CC6A-S5V9] (last visited Oct. 14, 2023).

174 *Id.*

175 Zeballos-Roig, *supra* note 55.

such as France, have seen such instances of tax flight.[176] Should the United States try to implement a wealth tax of its own, it must learn from the efforts of other countries.

A. Evasion and Tax Flight

Federal wealth tax is often criticized for inducing tax evasion. Critics argue that wealthy U.S. taxpayers will find ways to underreport and shield their taxable assets if a wealth tax is implemented by moving those assets out of the United States.[177] This problem has been seen in the countries examined in Section III. Norway, for example, has struggled with tax evasion. In Norway, the top 0.1% of taxpayers own 75% of Norwegian wealth hidden overseas.[178] Many wealthy Norwegian taxpayers report less of their true wealth to the government, and therefore pay fewer taxes overall. Switzerland also suffers from evasion of its wealth tax. In Switzerland, "a 1 percent wealth tax lower[ed] reported wealth by 23–34 percent."[179]

The U.S. government can take three steps to reduce and avoid tax evasion. The first step is to tax all assets, including those located domestically or abroad. This helps to ensure that wealthy taxpayers cannot avoid the wealth tax by simply moving their assets and holdings to other countries. The second step is to improve accurate data reporting and verification standards. Currently, the federal government mainly relies on self-reporting. Many wealthy taxpayers voluntarily report their income and wealth sources. The federal government can take multiple steps to improve this process so that it can more accurately assess the wealth of its taxpayers. The third step is to improve the auditing process. Tax audits allow the Internal Revenue Service ("IRS") to examine tax returns more closely. Tax audits can also deter taxpayers from misreporting or underreporting their taxable assets, because they can be penalized by the IRS if caught. The federal government should ensure the success of a federal wealth tax by auditing

176 Molly Moore, *Old Money, New Money Flee France and Its Wealth Tax*, WASH. POST (July 16, 2006), https://www.washingtonpost.com/archive/politics/2006/07/16/old-money-new-money-flee-france-and-its-wealth-tax/49ac2ec7-c1b2-423e-a89b-699750275cd4 [https://perma.cc/459X-DJXN].

177 Huaqun Li & Karl Smith, *Analysis of Sen. Warren and Sen. Sanders' Wealth Tax Plans*, TAX FOUND. (Jan. 28, 2020), https://taxfoundation.org/wealth-tax/ [https://perma.cc/89ZT-A7P6].

178 Alstadsæter et al., *supra* note 91, at 35.

179 Saez & Zucman, *supra* note 143, at 472.

wealthy taxpayers through the IRS and imposing significant penalties on wealthy taxpayers who underreport or misreport their income.

i. Wealth Taxation of Global Assets

The first step the federal government should take to ensure the wealth tax's success is to apply it to all assets held by U.S. taxpayers, regardless of whether the asset is located domestically or abroad. Other countries have succeeded in implementing wealth taxes that apply to a taxpayer's total assets globally. For example, Norway and Spain tax net wealth based on global assets.[180] Their wealth taxes have applied broadly and still generate revenue for those countries. In the United States, most taxpayers are not required to report the aggregate value of their assets for income tax purposes.[181] This would have to change for implementation of a successful federal wealth tax.

In the United States, some asset-reporting practices and structures already exist. Currently, taxpayers in the United States with foreign financial accounts must report assets in those accounts to the Treasury Department.[182] Every year, taxpayers must file a Report of Foreign Bank and Financial Accounts ("FBAR") that lists foreign financial accounts with more than $10,000 in assets, including accounts that did not produce any taxable income in that year.[183] FBAR reporting includes bank accounts, brokerage accounts, and mutual funds.[184] The federal government can use FBAR for wealth tax purposes. It can also expand self-reporting to include non-FBAR assets, such as domestic financial accounts and other forms of property. The federal government may also require domestic financial institutions to annually report their data on taxpaying customers to the IRS. By including foreign assets in the net wealth calculation, the federal government

180 Zeballos-Roig, *supra* note 55.

181 Guinevere Moore, *Under Biden Plan, the IRS Would Know a Lot More About Your Bank Accounts*, FORBES (Apr. 28, 2021, 2:52 PM), https://www.forbes.com/sites/irswatch/2021/04/28/banks-will-be-required-to-report-account-balances-account-outflows-and-inflows-to-irs-under-new-biden-plan/ [https://perma.cc/89ZT-A7P6].

182 *Report of Foreign Bank and Financial Accounts (FBAR)*, IRS, https://www.irs.gov/businesses/small-businesses-self-employed/report-of-foreign-bank-and-financial-accounts-fbar [https://perma.cc/JJN5-3QWW] (last visited Mar. 1, 2023).

183 *Id.*

184 *Id.*

would make it harder for taxpayers to avoid the wealth tax by moving their assets overseas.

ii. Verifying Taxpayer Data

To reduce tax evasion, the U.S. government must also verify self-reported data. In Switzerland, which only requires taxpayers to self-report their wealth, taxpayers frequently evade the wealth tax by underreporting their net wealth.[185] Taxpayers would rather risk underreporting their financial information and achieve a lower tax bill than accurately disclose all their assets, especially including those which the government cannot access. The United States' wealth tax should deny this incentive to taxpayers. The federal government can mitigate underreporting by implementing a more concrete reporting structure that involves multiple institutional partners, including banks, brokerage account companies, and other institutions that hold financial assets.

To verify self-reported data, the United States should require financial institutions to disclose the value of assets owned by taxpayers subject to the wealth tax. The federal government currently employs this strategy for income tax purposes. Under the Foreign Account Tax Compliance Act ("FATCA"), foreign financial institutions must report assets held by U.S. customers.[186] The minimum wealth threshold for reporting individuals is usually $50,000.[187] The federal government should extend this mandatory asset reporting when implementing a wealth tax by lowering the reporting threshold. The government should also require that all domestic financial institutions and foreign financial institutions report the assets of account holders subject to a federal wealth tax. By requiring such multi-institutional verification, the federal government will be able to reduce tax evasion due to inaccurate self-reported data.

iii. Effective Auditing

Another problem for wealth tax implementation is auditing. Effective auditing by the federal government can be used to deter and

185 Saez & Zucman, *supra* note 143, at 474.

186 *Foreign Account Tax Compliance Act (FATCA)*, IRS, https://www.irs.gov/businesses/corporations/foreign-account-tax-compliance-act-fatca [https://perma.cc/8Z7Y-GEJ4] (last visited Mar. 1, 2023).

187 *Id.*

prevent tax evasion. Auditing can be used to punish taxpayers who evade their liability, creating a deterrence effect. Audits provide two main benefits. First, they allow the federal government to address both intentional and unintentional misreporting and underreporting on tax returns. In cases of honest mistakes, auditing allows the government to reclaim the money it is owed and teaches taxpayers to be more careful. When there is intentional wrongdoing, auditing allows the federal government to identify dishonest taxpayers and help ensure that they are honest going forward. The second benefit of auditing is deterrence and punishment. Auditing helps the federal government reclaim taxes it is owed, but also allows it to impose sanctions and fines on the taxpayer who tries to evade their tax liability. These fines can disincentive future tax misreporting, but only if they are large enough. The federal government can reduce tax evasion by increasing the magnitude of audits on wealthy taxpayers, including increasing fines and ensuring audits.

The United States can also conduct increased and randomized audits that focus on calculating net wealth.[188] Countries like Switzerland have had success at enforcing their wealth tax by conducting randomized audits on wealthy taxpayers.[189] The United States can employ the same methods as Switzerland, such as looking for discrepancies in reported asset values across different parts of tax returns.[190] Furthermore, tax authorities in the United States should be granted enough time to audit taxpayers. Like in Switzerland, the federal government should be able to conduct audits up to five years after a tax return is filed.[191] The auditing period should be even longer if the IRS obtains new information that questions the veracity of a previously filed wealth tax return. This longer period could be ten years, as in Switzerland, where Swiss authorities can revisit a tax return up to ten years after it is filed if auditors find that a previously filed return was faulty.[192] The U.S. government's enforcement of the wealth tax will be more effective if it allows its agents more time to audit wealthy individuals.

188 Brülhart et al., *supra* note 131, at 6.
189 *Id.*
190 *Id.* at 7.
191 *Switzerland: Individual - Tax Administration*, *supra* note 154.
192 *Id.*

iv. Preventing Tax Flight

Critics also claim that a federal wealth tax will induce tax flight because wealthy residents will leave the United States to avoid the extra taxation.[193] Critics usually point to France's implementation of the wealth tax to support this claim.[194] For example, the French government estimated that 10,000 people with €35 billion worth of assets left the country during the fifteen years after the country introduced its wealth tax.[195] While wealthy taxpayers in the United States can afford to leave, the federal government must take two steps to ensure that its tax base is not diminished. First, a federal wealth tax should apply to any asset holder in the United States. In Spain, for example, non-residents are also subject to the wealth tax.[196] If a U.S. taxpayer decides to leave the country to avoid the wealth tax, their assets and property still in the United States would be taxed. Furthermore, foreign investors with assets will also be taxed under this scenario. By eliminating a residency requirement for the wealth tax and applying it more broadly, the federal government will be able to tax wealthy individuals even if they leave the country.

Taxing nonresidents and foreign owners of domestic assets presents unique issues that the federal government will need to address. First, taxpayers should not be subject to double taxation. In other terms, taxpayers should not be forced to pay wealth taxes to two separate countries; they should be able to use payment towards their home country as a credit towards tax owed to a foreign country. Otherwise, the tax burden will be excessive and perceived as unfair. Second, wealthier countries must not take a disproportionate amount of international tax revenue by applying wealth taxes to nonresidents. In other words, a wealthy taxpayer should first have to pay wealth taxes to their home country, if their home country has a wealth tax, before paying taxes to a foreign country. Otherwise, the home country could lose much-needed tax revenue if its wealthy citizens own many assets in foreign countries.

193 Edwards, *supra* note 53.

194 *Id.*

195 Michel Rose, *Macron Fights 'President of the Rich' Tag After Ending Wealth Tax*, REUTERS (Oct. 3, 2017, 2:41 PM), https://www.reuters.com/article/us-france-tax/macron-fights-president-of-the-rich-tag-after-ending-wealth-tax-idUSKCN1C82CZ [https://perma.cc/MW8D-TUKY].

196 *Spain: Individual - Other Taxes*, *supra* note 96.

To solve double taxation problems, the federal government has two options when implementing a wealth tax. First, the federal government can choose not to apply the wealth tax to foreign investors in the United States if those investors are subject to wealth taxes in their own country. This is the more administrable option because the federal government can determine whether another country has a wealth tax, and simply exclude the foreign investor from the U.S. wealth tax. However, this option may lead to a race to the bottom, as seen with international competition over the corporate income tax.[197] Countries might be willing to lower their wealth taxes to attract foreign investors. Once a resident of a country with a low-rate wealth tax, the foreign investor will no longer have to pay the U.S. wealth tax. To the wealthy, countries with low wealth taxes will seem more appealing than other countries with high wealth taxes.

The federal government can combat this race to the bottom by implementing "soak-up taxes." A soak-up tax applies the federal wealth tax to foreign investors, but also gives those foreign investors a credit for wealth taxes paid in their home country.[198] For example, consider a foreign investor in the United States who is subject to a 5% wealth tax in their home country. If the United States has a federal wealth tax of 6%, then the foreign investor will only be subject to a one percent federal wealth tax, because the first 5% would be paid to their home country and credited towards their federal wealth tax liability. If the federal wealth tax rate were less than the home country rate, such as 4% in this scenario, the foreign investor would not be liable for a federal wealth tax in the United States. A soak-up federal wealth tax, which would allow for the United States to "soak up" excess wealth tax not already paid to another country, is the best option to ensure that foreign investors pay taxes on their wealth but are not double taxed.

To ensure that its wealth tax base is not eroded by tax flight, the U.S. government can also advocate for a global wealth tax. This tax could parallel the one proposed by French economist Thomas Piketty.[199] A global wealth tax would have a large deterrent effect on

197 Thomas R. Torslov, Ludvig S. Wier & Gabriel Zucman, *The Missing Profits of Nations* 1 (Nat'l Bureau of Econ. Research, Working Paper No. 24701, 2020), https://www.nber.org/system/files/working_papers/w24701/w24701.pdf [https://perma.cc/LAQ7-EQC3].

198 Eric Reed, *How to Get a Foreign Tax Credit*, SMARTASSET (May 9, 2023), https://smartasset.com/taxes/foreign-tax-credit [https://perma.cc/5QME-Y7NU].

199 PIKETTY, *supra* note 27.

tax flight. Wealthy U.S. residents would no longer be encouraged to leave the country in order to avoid the wealth tax, because they could no longer find a more favorable wealth tax regime in another country. Tax coordination between countries is not new. In 2021, the United States was able to convince other countries to raise tax rates when nearly 140 countries agreed to implement a minimum tax rate of 15% and curb corporate exploitation of lower tax rates.[200] In light of that success, the United States should join efforts with other countries to set a global minimum wealth tax. Setting a global minimum would drastically limit the ability of wealthy taxpayers to avoid wealth tax.

B. Valuations and Borrowing

Federal wealth tax has also been criticized due to the difficulties the government would face in valuating assets and borrowed money. Imposing a wealth tax on assets like publicly held stocks and bonds are relatively simple for the government because they are publicly listed on a market.[201] Other assets, like investments in private corporations and most forms of real estate, are more difficult to value because they are often not regularly valuated.[202] Furthermore, a wealth tax may lead wealthy taxpayers to increase the amount they borrow, which would lower their wealth tax liability because they could subtract the borrowed amounts from their net wealth. Lastly, a wealth tax system can distort economic decisions if certain assets are treated more favorably than others, such as in Norway, where wealth tax values of real property are discounted compared to other assets.[203]

The United States can take three steps to address issues about valuations and borrowing. First, the government can limit the amount of debt that taxpayers can subtract when calculating their net wealth. Second, the government can implement better data collection techniques to ensure the correct valuations of net wealth. Third, the government can apply a uniform rate to all assets that is based on the taxpayer's total wealth, instead of differentiating tax treatment for different types of assets.

200 Alan Rappeport, *Pastries and Persuasion: How a Global Tax Deal Got Done*, N.Y. TIMES (Oct. 27, 2021), https://www.nytimes.com/2021/10/27/us/politics/global-minimum-tax-deal.html [https://perma.cc/3UBR-W5GQ].

201 Danielle Kurtzleben, *How Would A Wealth Tax Work?*, NPR (Dec. 5, 2019, 5:00 AM), https://www.npr.org/2019/12/05/782135614/how-would-a-wealth-tax-work [https://perma.cc/6DV5-ANGF].

202 *Id.*

203 *Valuation Discount in Connection with Assessment of Wealth*, *supra* note 78.

A federal wealth tax should not allow taxpayers to reduce the value of their taxable wealth by subtracting all their debt. Under some wealth tax frameworks, taxpayers can use huge sums of debt to offset the value of their assets.[204] In Switzerland, worldwide debts are deductible from one's wealth tax liability and are not capped.[205] Similarly, in Norway, taxpayers can subtract all of their global debt from their net wealth when calculating their wealth tax liability.[206] While taxpayers may not have to immediately pay off their debt, such as mortgages and other loans, they usually can access many of their assets during the taxable year.[207] Therefore, the assets of those individuals should still be taxed. Countries like Spain recognized the need to limit the amount of debt that wealthy individuals can use to reduce their tax liability.[208] In Spain, non-Spanish taxpayers can only deduct debts if the capital is invested in Spanish assets; they cannot use foreign debt to reduce their tax liability.[209] The United States should follow Spain's example and cap the amount of debt that wealthy taxpayers can use to mitigate their net wealth. Doing so will help to prevent wealthy taxpayers' ability to artificially reduce their taxable net wealth by borrowing against their valuable assets.

The government's second step to ensuring a successful wealth tax should involve accurate data collection. In particular, the government should look to multiple sources to verify wealth valuations. First, local governments, such as states and municipalities, could send tax data to U.S. tax authorities. Many localities in the United States already tax some forms of wealth;[210] local taxes on real property and vehicles are widespread.[211] In order to apply real property taxes, local governments already determine the values of those properties.[212] In the state of New York, for example, local assessors annually assess the market value of real properties, such as land and permanent structures

204 Banoun, *supra* note 71, at 6.

205 *Switzerland: Individual - Other Taxes*, *supra* note 132.

206 Banoun, *supra* note 71, at 6.

207 *Id.*

208 Ramallo, *supra* note 102, at 7.

209 *Id.*

210 MICHAEL J. GRAETZ, DEBORAH H. SCHENK & ANNE ALSTOTT, FEDERAL INCOME TAXATION: PRINCIPLES AND POLICIES 41 (8th ed. 2018).

211 *Id.*

212 Kurtzleben, *supra* note 201.

attached to the land.[213] These local assessments can provide valuable data for calculating the net wealth of wealthy individuals. As a policy matter, the federal government could require local governments to report valuation data on the real estate and vehicles that it already taxes.[214] Similarly, the federal government could use vehicle registration databases to determine the make and models of vehicles owned by those individuals subject to the wealth tax.[215] Overall, state and local tax databases can provide the federal government with valuable wealth data that can be used to determine and verify the values of assets for wealth tax calculations.

Consequences for taxpayers who fail to disclose the value of their assets truthfully and completely can also be used to ensure accurate data collection. The federal government can impose stiff penalties on those who purposely undervalue their assets to reduce their tax liability. Such penalties will deter taxpayers from committing tax fraud by undervaluing their assets because they will lose more if discovered and audited. Other strategies are also available, such as in Switzerland, where the government authorizes financial institutions to withhold dividend and interest income throughout the year and returns the withheld payment to the taxpayer if they accurately disclose all their assets.[216] The United States could employ a similar tactic to encourage accurate reporting. The United States may require banks or other financial institutions to withhold a percentage of income generated by a wealthy taxpayer's assets, and then return the withheld payment to the taxpayer following calculation and payment of wealth taxes.

V. CONCLUSION

In light of soaring wealth inequality and insufficient tax revenue, the United States should follow the examples of other countries and adopt a wealth tax targeted at the wealthiest individuals and families. Countries such as Norway, Spain, and Switzerland have maintained wealth taxes for decades and have consistently raised revenue from these taxes. The United States should learn from the experiences of those countries and implement a wealth tax of its own. This Note

213 *Property Taxes*, N.Y. STATE DEP'T OF TAX'N & FINS., https://www.tax.ny.gov/pit/property/learn/proptax.htm [https://perma.cc/RPZ7-MYQ6] (Apr. 20, 2021).

214 Kurtzleben, *supra* note 201.

215 *Id.*

216 Brülhart et al., *supra* note 131, at 6; *see also supra* Part III(C).

has detailed some of the steps the United States can take to prevent common wealth tax issues such as tax evasion and tax flight, and to accurately assess the wealth of taxpayers.

A federal wealth tax should apply to all taxpayer assets, whether they are located domestically or abroad. Anyone owning property in the United States should be subject to this tax to reduce the impact of tax flight. Taxpayers should also be required to self-report the values of these assets, like taxpayers currently do when filing FBARs for foreign finances. The federal government should verify the accuracy of self-reported assets by requiring financial institutions to disclose the value of accounts held by taxpayers, similar to foreign financial institutions' current disclosure obligations under FATCA. The federal government should also ensure accurate valuations of real property and personal property by checking self-reported asset values against state and local databases. Lastly, the federal government should cap the amount of debt that taxpayers can use to offset their wealth when calculating net wealth. By successfully implementing a federal wealth tax, the United States can use the revenue generated to fund specific popular spending programs like social security or healthcare insurance. Doing so will not only create important financial support for much-needed social programs, but it will also ensure broad public support for a national wealth tax for decades to come.