ADDRESSING THE U.S. TAX GAP THROUGH PARTICIPATORY BUDGETING: A COMPARATIVE APPROACH*

I. INTRODUCTION

The individual income tax is the single largest source of revenue for the United States.[1] This important tax is imposed on the wages, salaries, investments, and other types of income that an individual or household earns.[2] Since its founding in 1913 with the ratification of the Sixteenth Amendment, the individual income tax has been a crucial means of funding public spending.[3] While the federal government funds public spending through several different types of taxes,[4] data from 2020 indicated that the individual income tax made up 41.1% of the country's total revenues.[5] The share of total revenues that the individual income tax makes up in the United States is almost double that of the corresponding average Organization for Economic Co-operation and Development (OECD) country measure.[6]

The U.S. individual income tax system relies on the concept of voluntary compliance to function properly.[7] Voluntary compliance represents the idea that a country's citizens will cooperate with their government's tax system by filing honest and accurate returns each year.[8] In other words, taxpayers must pay their taxes without any proactive action by the federal government.[9] Voluntary compliance is beneficial, in theory, because it allows the U.S. individual income tax system to operate with lesser

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1. *Individual Income Tax*, TAX FOUND., https://taxfoundation.org/tax-basics/individual-income-tax/ [https://perma.cc/3D4P-7DNX] (last visited Apr. 1, 2023).

2. *Id*.

3. *See id*.

4. *Taxes in the United States*, TAX FOUND., https://taxfoundation.org/country/united-states/ [https://perma.cc/5QH4-9XDQ] (last visited Apr. 1, 2023).

5. *See Sources of Government Revenue in the OECD*, TAX FOUND. (Feb. 10, 2022), https://taxfoundation.org/publications/sources-of-government-revenue-in-the-oecd/ [https://perma.cc/PN2V-GUY4].

6. *See Taxes in the United States*, *supra* note 4.

7. *See IRS Criminal Investigation Voluntary Disclosure Practice*, INTERNAL REVENUE SERV., https://www.irs.gov/compliance/criminal-investigation/irs-criminal-investigation-voluntary-disclosure-practice [https://perma.cc/32AF-SPX3] (Apr. 5, 2023).

8. Julia Kagan, *Voluntary Compliance*, INVESTOPEDIA, https://www.investopedia.com/terms/v/voluntarycompliance.asp#:~:text=What%20Is%20Voluntary%20Compliance%3F,not%20without%20checks%20and%20balances [https://perma.cc/5KUV-45RP] (Nov. 29, 2020).

9. *Id*.

enforcement action and subsequent costs.[10] However, the reality is that it creates a tax system that many citizens find confusing and challenging to navigate.[11]

The tax gap faced by the United States exhibits the shortcomings of a tax system reliant on voluntary compliance.[12] The tax gap is a measure that represents the difference between taxes owed and those that are paid.[13] The most recent official U.S. gross tax gap estimates that hundreds of billions of dollars of individual income tax are not being paid.[14] This large tax gap amount illustrates that voluntary compliance may not work as well, which leads to subsequent fairness challenges for the system and its taxpayers.[15]

This Comment explores how the United States can alleviate the issue presented by a large tax gap amount by drawing upon lessons learned by the Nordic countries of Sweden, Norway, Denmark, Finland, and Iceland to increase taxpayer buy-in.[16] The Nordic model employed in these countries includes higher levels of taxation coupled with a strong sense held by citizens that the government uses their tax dollars efficiently.[17] Because citizens of these Nordic countries are more inclined to voluntarily pay their taxes,[18] the government can, in turn, dedicate less of its resources to ensuring compliance.[19] On the other hand, Americans do not have the same trust in their tax system.[20] To increase taxpayer buy-in and allow its individual income tax system to function more like those seen in the Nordic countries, the United States must change public perception regarding tax fairness.[21] The United States should do this by implementing participatory budgeting, a process that allows citizens to provide their input on how public dollars are spent.[22]

This Comment argues that participatory budgeting should be incorporated into the individual income tax system in the United States to close the tax gap and better allow the system to achieve its designed policies. Section II first discusses the fundamental policy metrics that the United States and tax experts around the world rely on to evaluate

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10. *See* J.T. Manhire, *What Does Voluntary Compliance Mean? A Government Perspective*, 164 U. PA. L. REV. ONLINE 11, 15 (2015).

11. *See id*.

12. *See The Tax Gap*, INTERNAL REVENUE SERV., https://www.irs.gov/newsroom/the-tax-gap [https://perma.cc/9UGC-VDYC] (Oct. 28, 2020).

13. *What Is the Tax Gap?*, TAX POL'Y CTR., https://www.taxpolicycenter.org/briefing-book/what-tax-gap [https://perma.cc/2KT6-DLE3] (May 2020).

14. DEP'T OF THE TREASURY, THE AMERICAN FAMILIES PLAN TAX COMPLIANCE AGENDA 1 (May 2021), https://home.treasury.gov/system/files/136/The-American-Families-Plan-Tax-Compliance-Agenda.pdf [https://perma.cc/VD49-RVUG].

15. *See id*.

16. *See* PETE BUTTIGIEG, TRUST: AMERICA'S BEST CHANCE 156 (2020).

17. *Id.* at 157.

18. *See* BO ROTHSTEIN, SOCIAL TRAPS AND THE PROBLEM OF TRUST 2 (2005).

19. ULF ANDREASSON, NORDIC COUNCIL OF MINISTERS, TRUST – THE NORDIC GOLD 11 (2017), http://norden.diva-portal.org/smash/get/diva2:1095959/FULLTEXT02.pdf [https://perma.cc/RX8F-RC5P].

20. *See Growing Partisan Divide Over Fairness of the Nation's Tax System*, PEW RSCH. CTR. (Apr. 4, 2019), https://www.pewresearch.org/politics/2019/04/04/growing-partisan-divide-over-fairness-of-the-nations-tax-system/ [https://perma.cc/8CCE-JEJT].

21. *See* ANDREASSON, *supra* note 19, at 21.

22. *What is PB?*, PARTICIPATORY BUDGETING PROJECT, https://www.participatorybudgeting.org/what-is-pb/ [https://perma.cc/2N8M-CRGL] (last visited Apr. 1, 2023).

tax systems.[23] The Section then takes a closer look at the tax gap through different lenses that shed light on what taxpayer behavior fuels the tax gap amount.[24] Section II also details the Nordic model that levies higher taxes on citizens but receives higher voluntary compliance.[25] It concludes by presenting how participatory budgeting can be leveraged to better incentivize tax compliance.[26] Section III argues that the United States can better facilitate voluntary taxpayer compliance by boosting their levels of system buy-in.[27] It concludes that the federal government can do this by implementing participatory budgeting into the individual income tax filing process.[28]

II. OVERVIEW

The Internal Revenue Service (IRS) examines taxpayer compliance in the United States from time to time by estimating the "tax gap."[29] The gross tax gap represents the difference between total taxes owed and those paid on time.[30] The IRS maintains that tax gap estimates from the past several decades show that the United States has a high and stable level of voluntary tax compliance.[31] This is illustrated by the tax gap amount remaining within 15–18% of total tax liability over the past thirty years.[32] Nonetheless, a 2021 Department of Treasury analysis found that the tax gap in 2019 was almost $600 billion and will increase to roughly $7 trillion in the next ten years if left unaddressed.[33] These unpaid taxes harm compliant taxpayers when policymakers have to choose to raise deficits, decrease necessary spending, or increase taxes to make up for lost revenue.[34]

Part II.A describes the U.S. federal income tax system and the fundamental principles on which it was founded. It also discusses additional policy metrics that tax experts worldwide use to evaluate tax systems. Part II.B delves into the tax gap by presenting recent tax gap amount estimates and looking toward its future trajectory. It breaks down the tax gap into categories based on different analytical approaches that clarify what fuels the gross tax gap.[35] Part II.C presents the Nordic model of countries such as Sweden and Norway, which levies higher taxes on citizens but sees higher voluntary compliance than the United States. It discusses the model's key element of trust and how this variable of trust yields different tax outcomes between the Nordic countries and the United States. Part II.D concludes this Section by outlining the relationship between tax compliance and incentives. It details one potential compliance incentive known as "participatory budgeting," a process through which citizens can voice

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23. *See infra* Part II.A.
24. *See infra* Part II.B.
25. *See infra* Part II.C.
26. *See infra* Part II.D.
27. *See infra* Part III.A.
28. *See infra* Part III.B.
29. *The Tax Gap*, *supra* note 12.
30. TAX POL'Y CTR., *supra* note 13.
31. *Id*.
32. TAX POL'Y CTR., *supra* note 13.
33. DEP'T OF THE TREASURY, *supra* note 14, at 3.
34. *Id*.
35. *See infra* Part II.B.

how they think their government should spend public taxpayer dollars to increase its voluntary compliance rate.

A. Fundamental Tax System Principles

The United States has imposed a federal income tax system on its citizens for roughly one hundred years.[36] The federal government began collecting taxes on wages, salaries, investments, and other forms of income after Congress passed the Sixteenth Amendment in 1913.[37] The tax structure is progressive, which means that the rate at which a person's income is taxed increases as their level of income rises.[38] As of 2021, the lowest rate the United States taxes income is 10%, while the highest rate is 37%.[39] These rates apply to different ranges of income that are called tax brackets.[40] Each tax bracket is taxed at its own specific rate.[41]

The Internal Revenue Code (I.R.C.) sets out the federal income tax system authorized by the Sixteenth Amendment based on the notion of ability to pay.[42] According to *West's Tax Law Dictionary*, this "concept [provides] that [a] taxpayer's liability should be consistent with level of income."[43] I.R.C. Section 1 codifies the ability-to-pay principle in the U.S. system by levying income tax on citizens based on what their taxable income is.[44] The principle corresponds with a progressive tax system and represents the idea that a country should impose tax consistent with a person's ability to pay.[45] It follows that those who earn more are able to pay more in tax.[46]

In the eighteenth century, influential academic Adam Smith posited that all tax systems should reflect the "ability-to-pay" principle.[47] Smith set up this position in the second part of his fifth *Wealth of Nations* book, where he notes his four "maxims" of taxation.[48] He argues that the "ability-to-pay" principle is one rooted in proportionality.[49] In other words, Smith believes that "[t]he subjects of every state ought to contribute towards the support of the government . . . in proportion to their respective abilities; that

36. *See Individual Income Tax*, *supra* note 1.

37. *Id*.

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. *See Ability to Pay*, WEST'S TAX LAW DICTIONARY § A40.50 (2022).

43. *Id.*

44. *See* I.R.C. § 1 (West).

45. WEST'S TAX LAW DICTIONARY, *supra* note 42.

46. *Id.*

47. *Id.*

48. Paul Mueller, *Adam Smith on Public Policy: Four Maxims of Taxation*, LIBERTARIANISM.ORG (Jan. 4, 2016), https://www.libertarianism.org/columns/adam-smith-public-policy-four-maxims-taxation [https://perma.cc/CR37-FSQ5].

49. *Id.*

is, in proportion to the revenue which they respectively enjoy under the protection of the state."[50]

The three other maxims that Smith notes are based on certainty, convenience, and good economics.[51] With respect to certainty, he writes that "[t]he time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor, and to every other person."[52] On convenience, Smith says, "[e]very tax ought to be levied at the time, or in the manner, in which it is most likely to be convenient for the contributor to pay it."[53] Lastly, he believes that a tax system should "be so contrived as both to take out and to keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the state."[54] In other words, the tax system should seek to avoid creating additional costs and deadweight loss to the greatest extent possible.[55]

These principles put forth by Smith continue to influence those who evaluate taxation efforts.[56] The Association of International Certified Professional Accountants (AICPA) recently provided a "tax policy concept statement" designed to create "[a] framework based on appropriate tax policies . . . to effectively analyze proposals to change tax rules and tax systems."[57] The framework includes twelve "guiding principles" that are "commonly cited and used as indicators of good tax policy."[58] The first four are Smith's maxims from *the Wealth of Nations*.[59] The remaining eight are principles that governments, economists, and tax experts, including the Organization for Economic Co-operation and Development (OECD), have proffered as "broad tax policy considerations that have traditionally guided the development of taxation systems."[60]

These eight principles are information security, simplicity, neutrality, economic growth and efficiency, transparency and visibility, minimum tax gap, accountability to taxpayers, and appropriate government revenues.[61] AICPA illustrates in its policy statement that these principles, plus the four offered by Smith, correspond to international criteria that are commonly used to assess tax systems.[62] These criteria

50. ADAM SMITH, *On the Revenue of the Sovereign or Commonwealth*, *in* THE WEALTH OF NATIONS Book V, ch II, pt. II, https://www.marxists.org/reference/archive/smith-adam/works/wealth-of-nations/book05/ch02b.htm [https://perma.cc/V5XN-TWXN] (last visited Apr. 1, 2023).

51. *See* WEST'S TAX LAW DICTIONARY, *supra* note 42; *see also* Mueller, *supra* note 48.

52. Smith, *supra* note 50.

53. *Id.*

54. *Id.*

55. Mueller, *supra* note 48; *see also* Cecil E. Bohanon et. al., *Saying Too Little, Too Late: Public Finance Textbooks and the Excess Burdens of Taxation*, 11 ECON J. WATCH 277, 279 (2014).

56. *See generally* ASS'N OF INT'L CERTIFIED PRO. ACCTS., GUIDING PRINCIPLES OF GOOD TAX POLICY: A FRAMEWORK FOR EVALUATING TAX PROPOSALS, https://www.aicpa.org/advocacy/tax/downloadabledocuments/tax-policy-concept-statement-no-1-global.pdf [https://perma.cc/3S5R-6SFR] (last updated Jan. 2017).

57. *Id.* at 2.

58. *Id.* at 3.

59. *Id.*

60. *Id.* at 3 n.2 (citing ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD), ADDRESSING THE TAX CHALLENGES OF THE DIGITAL ECONOMY 30 (2014)).

61. *Id.* at 4–5.

62. *Id.*

include the OECD's principles, as well as the U.S. Joint Committee on Taxation (JCT) and Government Accountability Office (GAO) metrics.[63] The JCT criteria pose guiding questions related to each principle: "Is the tax system fair?" or "Can the tax system be easily administered by the government and can it induce compliance by all individuals?"[64] On the other hand, the GAO provides further explanation of its corresponding principles by defining what they mean and include.[65]

With respect to the tenth AICPA principle, minimum tax gap, the organization notes that "[s]tructuring tax laws to minimize noncompliance is essential."[66] Because both intentional and unintentional errors can fuel a country's tax gap, countries should consider whether their laws are too complex and their systems' rules encourage noncompliance.[67] Compliance is encouraged when the system can facilitate ease of payment for taxpayers and impose penalties if they choose not to participate properly.[68] Striking a balance requires considering the desired level of compliance, costs of enforcement, and level of inclusiveness of the tax.[69] It is important to ensure that a country's tax gap is minimized because a larger measure "result[s] in inequities and inefficiencies due to the need to offset the revenue loss with other sources."[70]

B. The Tax Gap

Recent tax gap estimates indicate that hundreds of billions of dollars of taxes go unpaid each year.[71] While the exact number is in controversy,[72] the amount is undeniably large and appears to be increasing.[73]

Part II.B.1 presents the most recent official tax gap estimates, notes how some feel these estimates do not fully reflect the entire amount, and discusses the challenges that a large amount of unpaid taxes poses for the United States. Part II.B.2 analyzes the tax gap from various angles to better understand the measure and its causes.

1. Gross Tax Gap is Large and Has Been Increasing

The most recent official U.S. tax gap amount estimates that hundreds of billions of dollars of tax liability are not being paid.[74] This IRS estimate from tax years 2011–2013

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63. *Id.*

64. *Id.* at 4.

65. *See id.* at 4–5.

66. *Id.* at 3.

67. *See id.* at 9.

68. *See id.*

69. *Id.*

70. *Id.*

71. *The Tax Gap*, *supra* note 12.

72. *See The 2021 Filing Season and 21st Century IRS*, 117th Cong. (2021) (statement of Sen. Ron Wyden, Chairman, S. Comm. on Fin.); *see also* Natasha Sarin & Lawrence H. Summers, *Shrinking the Tax Gap: Approaches and Revenue Potential* 3 (Nat'l Bureau of Econ. Rsch., Working Paper No. 26475, 2019), https://www.nber.org/system/files/working_papers/w26475/w26475.pdf [https://perma.cc/8ZG2-7B6E].

73. DEP'T OF THE TREASURY, *supra* note 14, at 3.

74. *See* I.R.S., Publ'n 1415, Federal Tax Compliance Research: Tax Gap Estimates for Tax Years 2014–2016, at 1 (2022), https://www.irs.gov/pub/irs-pdf/p1415.pdf [https://perma.cc/M7Q7-9CG4].

finds that the gross tax gap totals $441 billion.[75] This measure increased by $41 billion from the prior tax years 2008–2010 valuation.[76] The 2011–2013 gross tax gap reflects a voluntary compliance rate of 83.6%, which is consistent with estimates from prior recent tax years.[77] After factoring in "Enforced & Other Late Payments" amounting to $60 billion, the net tax gap for tax years 2011–2013 is $381 billion.[78]

The tax gap has generally been increasing over the past decade and is projected to continue to grow into the future.[79] In 2001, the gross tax gap was $345 billion.[80] This number jumped to $472 billion in 2006.[81] The gross tax gap decreased for tax years 2008–2010 when $394 billion in tax liability went unpaid each year on average.[82] The number went up again for tax years 2011–2013 and is expected to move further in that direction.[83] The Biden administration notes that the unofficial gross tax gap amount for tax year 2019 totals $584 billion.[84] The Department of the Treasury reports that the tax gap will amount to $7 trillion over the next decade.[85]

The official tax gap estimates may not fully capture the unpaid tax liability.[86] At a hearing on the 2021 tax filing season before the Senate Finance Committee held in April 2021, Committee Chairman and Senator Ron Wyden (D-OR) suggested that the tax gap amounts provided by the IRS are outdated and potentially lower than the tax gap truly is.[87] IRS Commissioner Charles Rettig conceded this point, noting that the last official tax gap amount is from 2011–2013 and pointing to the rise of cryptocurrency.[88] Rettig also stated that offshore tax evasion by the top 1% of income earners likely contributes to official tax gap estimates being lower than they actually are.[89] After incorporating these factors, he concluded that a more accurate tax gap measure is around $1 trillion.[90]

Studies led by those outside the government have determined that the true tax gap measure is greater than $381 billion but less than $1 trillion.[91] A pair of researchers who extrapolated the 2011–2013 gross tax gap accounting for inflation and income growth believe that the current tax gap amounts to $630 billion.[92] This number represents almost

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75. *Id.* at 9.
76. *Id.*
77. *Id.* at 7.
78. *Id.* at 8.
79. *See* DEP'T OF THE TREASURY, *supra* note 14, at 3.
80. I.R.S, Publ'n 1415, *supra* note 74, at 10.
81. *Id.*
82. *Id.*
83. DEP'T. OF THE TREASURY, *supra* note 14, at 3.
84. *Id.*
85. *Id.*
86. *See The 2021 Filing Season and 21st Century IRS*, *supra* note 72.
87. *Id.*
88. *Id.* (statement of Charles P. Rettig, Comm'r, Internal Revenue Serv.).
89. *Id.*
90. *Id.*; *see also* John McCormick, *IRS Chief Says $1 Trillion in Taxes May Go Uncollected Each Year*, WALL STREET J. (Apr. 13, 2021), https://www.wsj.com/articles/irs-chief-says-1-trillion-in-taxes-may-go-uncollectedeach-year-11618337765 [https://perma.cc/2AA9-RFSN].
91. Sarin & Summers, *supra* note 72, at 3.
92. Sarin & Summers, *supra* note 72, at 3.

15% of total tax liabilities.[93] Another group from the National Taxpayers Union Foundation argues that because Commissioner Rettig's statement that the tax gap measure could be $1 trillion "was an off-the-cuff estimate," lawmakers should not give it too much credence.[94] They note that the former taxpayer advocate, Nina Olson, does not see any calculation that adds up to $1 trillion.[95] The group also points to the opinion of former IRS Commissioner Charles Rossotti, who believes that the true tax gap amount is $574 billion, as further support that Rettig's comments should be taken lightly.[96]

Regardless of what the most accurate tax gap measure is, the amount is large and increasing, which impacts the ability of the U.S. tax system to function properly.[97] Most fundamentally, the tax gap serves as a measure that indicates the "administrative effectiveness" of the federal tax system.[98] The size of the tax gap impacts fiscal policy by contributing to the tax revenues that the federal government collects and subsequently spends.[99] The distribution of the tax gap across different income bands affects the system's ability to be as progressive as it was designed to be.[100] When the tax gap increases, the tax burden shifts from those who do not pay what they owe to those who do.[101]

2. A Closer Look at the Current Gap

While the fundamental cause of the tax gap—unpaid tax—is a simple idea, there are a few different ways that policymakers and other experts can analyze the amount.[102] Part II.B.2 explores these approaches to better understand what causes a large amount of tax liability to go unpaid and why it has increased in recent history.

Part II.B.2.a examines the tax gap by type of taxpayer and concludes that individuals contribute the most to the gross tax gap. Part II.B.2.b analyzes the tax gap by taxpayer behavior and finds that underreporting is the most prevalent action that fuels it. Part II.B.2.c discusses the role that a lack of third-party reporting has in encouraging underreporting. Lastly, Part II.B.2.d highlights how a diminished IRS contributes to the issue.

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93. *Id.*

94. *See* ANDREW WILFORD, ANDREW MOYLAN & PETE SEPP, NAT'L TAXPAYERS UNION FOUND., THE TAX GAP: NO TRILLION DOLLAR SILVER BULLET 2 (2021), https://www.ntu.org/foundation/detail/the-tax-gap-no-trillion-dollar-silver-bullet [https://perma.cc/88K5-MTGY].

95. *Id.*

96. *Id.*

97. *See* DEP'T OF THE TREASURY, *supra* note 14, at 3.

98. *Id*.

99. *See id.*

100. *See id.*

101. *The Tax Gap*, *supra* note 12.

102. *See* H. Wayne Cecil, PhD, GPA & Teresa A. King, PhD, CPA, *Understanding the Federal Tax Gap: A Closer Look at Declining IRS Enforcement Activities*, THE CPA JOURNAL (Oct. 2017), https://www.cpajournal.com/2017/11/06/understanding-federal-tax-gap/ [https://perma.cc/44E4-QLGA].

a. Individuals Contribute the Most to the Tax Gap

The first lens through which those interested in addressing the tax gap can examine it is by looking at the types of taxpayers that do not fulfill their tax liability.[103] The official IRS gross tax gap measures consist of individual income taxes, corporate income taxes, employment taxes, and estate taxes.[104] By identifying which types of taxes go unpaid in the highest amounts, the IRS can better understand which taxpayers contribute the most to the tax gap.

The tax gap estimate for tax years 2011–2013 illustrates that individual income earners fuel the tax gap significantly more than any other type of taxpayer.[105] Of the $441 billion in unpaid taxes that made up the tax gap over those years, before enforced and other late payments are factored in, $314 billion came from individual income taxes.[106] Employment taxes were the next highest type, contributing $81 billion to the tax gap amount.[107] Corporate income tax and estate tax followed in $42 billion and $3 billion, respectively.[108]

The second most recent official IRS tax gap measure also reflects this trend of individuals making up the largest component of the tax gap.[109] For tax years 2008–2010, the amount that individual income earners contributed to the tax gap amount ($319 billion) was slightly more than in 2011–2013.[110] This category remained larger than all the others—employment, corporate, estate, and excise—combined.[111] These amounts totaled $91 billion, $44 billion, $4 billion, and $400 million, respectively.[112]

b. Taxpayer Behavior that Makes up the Largest Tax Gap Element is "Underreporting"

Another way to take a closer look at the tax gap is by analyzing taxpayer behavior.[113] This lens consists of three parts: (1) those who do not file their tax return on time ("nonfilers"), (2) those who underreport their income or overclaim deductions and credits on their tax returns ("underreporters"), and (3) those who do not fully pay their tax liability despite filing their returns on time ("underpayers").[114] Official tax gap estimates show that underreporters have and will continue to contribute to the measure the most.[115]

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103. *See id.*

104. *See id.*

105. *See* I.R.S, Publ'n 1415, *supra* note 74, at 8.

106. *Id.*

107. *Id.*

108. *Id.*

109. *See* I.R.S., Publ'n 1415, Federal Tax Compliance Research: Tax Gap Estimates for Tax Years 2008–2010, at 2 (2016), https://www.irs.gov/pub/irs-soi/p1415.pdf [https://perma.cc/A4KL-8YEX].

110. *Compare id.*, *with* I.R.S. Publ'n 1415, *supra* note 74, at 8.

111. *See* TAX GAP ESTIMATES FOR TAX YEARS 2008–2010, *supra* note 109.

112. *Id.* at 7.

113. *See* Cecil & King, *supra* note 102.

114. DEP'T OF THE TREASURY, *supra* note 14, at 3–4.

115. *See id.* at 4.

The IRS tax gap estimates for tax years 2011–2013, and a 2019 projection, illustrate that the underreporting gap represents about 80% of the tax gap amount when considering taxpayer behavior.[116] This segment represents $352 billion of the $441 billion gross tax gap measure for 2011–2013.[117] The Treasury projects that this number rose for 2019, amounting to $466 billion of the $584 billion total tax gap.[118] The nonfiling and underpayment gaps do not come even close to these numbers, as they were $39 billion and $50 billion in 2011–2013.[119] The elements later rose to $52 billion and $66 billion in 2019.[120]

The tax years 2008–2010 tax gap measures also indicate that underreporters made up the largest part of the tax gap during those years.[121] This part of the estimate amounted to $387 billion of the $458 billion total tax gap.[122] Over these years, the underreporting element made up a larger part of the gross tax gap at 84%.[123] The remaining components of nonfiling and underpayment contributed $32 billion and $39 billion, respectively.[124]

c. Taxes Subject to the Least Amount of Third-Party Reporting Make up the Largest Part of the Underreporting Element

Tax experts examine the underreporting element of the tax gap further by breaking it down into segments based on level of third-party reporting.[125] Third-party reporting occurs when a taxpayer has to report their taxes owed to the IRS and another party, such as their employer.[126] This phenomenon occurs most often with individuals who receive a W-2 Form from their employer and then file that information with the IRS as part of their tax filing.[127] By taking a closer look at the level of third-party reporting that occurs with respect to underreported tax liability, one can better understand how this additional measure impacts a taxpayer's proclivity to underreport.

It should not be all that surprising that the most recent tax gap estimates reflect that when income is subject to lesser third-party reporting, taxpayers are more likely to underreport it.[128] Income that is subject to both information reporting and withholding, such as income that is earned from a traditional employer and represented by a W-2 Form, has a misreporting rate of approximately 1%.[129] This amount rises to 5% when the income is subject to information reporting but not withholding.[130] For income that

116. *See id*.
117. *Id.*
118. *Id.*
119. *Id.*
120. *Id.*
121. *See* TAX GAP ESTIMATES FOR TAX YEARS 2008–2010, *supra* note 109, at 2.
122. *Id.*
123. *See id.*
124. *Id.*
125. *See* Cecil & King, *supra* note 102.
126. *See* DEP'T OF THE TREASURY, *supra* note 14, at 5.
127. *See id.*
128. *See id.* at 6.
129. *See id.*
130. *Id.*

receives some limited amount of third-party reporting, the misreporting rate is 17%.[131] When income is subject to little or no information reporting, the rate rises to 55%.[132]

The tax gap estimates for tax years 2008–2010 further support the relationship between lower third-party reporting and greater measures of underreporting.[133] The IRS attempts to explain this phenomenon by noting that incomes that receive less third-party reporting are not as "visible" to the agency and thus easier to not include on a taxpayer's filing.[134] The rates at which underreporters misreport their income based on the level of third-party verification over these tax years was similar to 2011–2013.[135] Information reporting and withholding was 1%, information reporting but not withholding was 7%, some information reporting was 19%, and little to no information reporting was 63%.[136]

d. A Diminished IRS Has Incentivized Taxpayer Non-Compliance

As the tax gap has grown in recent years, the capacity of the IRS has been diminishing.[137] The House Budget Committee states that over the last ten years, "harsh budget cuts" have decreased the agency's "ability to ensure that corporations and wealthy individuals pay their fair share of revenues."[138] Professors Wayne Cecil and Teresa King note further that this issue may stem from lower spending on enforcement associated with the budget cuts.[139] In 2010, the IRS spent $5.5 billion on enforcement efforts.[140] This segment represented approximately 44% of the agency's total expenditures.[141] By contrast, enforcement expenditures in 2020 represented only $4.8 billion, or 39%, of the agency's spending.[142]

Professors Cecil and King also posit that an increased tax gap fueled by a depleted IRS stems from the impact that spending cuts have had on the number of personnel at the agency.[143] They note a correlation between decreased enforcement expenditures and reported IRS positions.[144] The IRS data supported this position.[145] In 2010, the IRS had 94,771 full-time equivalent (FTE) positions that carried out its tax collection work.[146] By

131. *Id.*

132. *Id.*

133. *See* INTERNAL REVENUE SERV., *supra* note 109, at 3.

134. *See id.* at 2.

135. *See The Tax* Gap, *supra* note 12.

136. TAX GAP ESTIMATES FOR TAX YEARS 2008–2010, *supra* note 109, at 5.

137. *See* STAFF OF H. COMM. ON THE BUDGET, 117TH CONG., FUNDING THE IRS PAYS OFF: PREVENTING TAX DODGING BY WEALTHY FILERS IS THE FIRST STEP TO FIXING OUR TAX CODE 1 (Comm. Print 2020), https://democrats-budget.house.gov/publications/report/funding-irs [https://perma.cc/29UU-K8MD].

138. *Id.*

139. *See* Cecil & King, *supra* note 102.

140. *See* I.R.S, Publ'n 55B, Data Book 2010, at 63, https://www.irs.gov/pub/irs-soi/10databk.pdf [https://perma.cc/UZ8R-NATM].

141. *See id.* at 65 tbl. 28.

142. *See* I.R.S., Publ'n 55B, Data Book 2020, at 71 tbl. 30, https://www.irs.gov/pub/irs-prior/p55b--2021.pdf [https://perma.cc/W9LX-JRUF].

143. *See* Cecil & King, *supra* note 102.

144. *Id.*

145. *See id.*

146. I.R.S, Publ'n 55B, Data Book 2010, *supra* note 140, at 67.

2020, this number dropped to 75,773, representing almost a 20% decrease over the ten-year span.[147]

As spending and staffing at the IRS have dropped between 2010 and 2020, so too have efforts targeted at closing the tax gap.[148] The IRS itself states that over the past decade, resources for examinations that permit it to ensure tax filings accurately reflect tax liability have decreased.[149] The IRS reported that it conducted approximately 1.7 million examinations in 2010.[150] This number decreased by more than 50% by 2020, with the IRS only conducting about 500,000 examinations.[151]

Collection activities aimed to secure identified unpaid tax liabilities have also dropped dramatically in recent years.[152] In 2010, the IRS filed approximately 1.1 million tax liens and served 3.6 million levies as part of its enforcement efforts.[153] These numbers plummeted by 2020 as the agency reported only about 290,000 liens and 396,000 levies.[154] The change in these activities over the past decade represents a decrease of 73% and 89%, respectively.[155]

C. Nordic Model Illustrates How a Lack of Taxpayer Buy-In Fuels the Tax Gap

U.S. citizens, by and large, disfavor the federal tax system,[156] which may impact their willingness to comply and pay what they owe. The Pew Research Center found that less than half of Americans surveyed in 2019 after Congress passed the 2017 Tax Cuts and Jobs Act[157] felt that the system is fair.[158] The results further indicated that 63% of respondents said the "economic system unfairly favors powerful interests."[159] Only 34% believed it is "generally fair to most Americans."[160]

Americans' negative opinion toward the U.S. tax system differs from how citizens of the Nordic countries—Sweden, Norway, Denmark, Finland, and Iceland—feel about paying taxes.[161] Despite having some of the highest taxes globally, Nordic taxpayers willingly comply with the burden because they feel that they receive a high-value return from their governments for what they pay.[162] A 2017 report by the Nordic Council of Ministers concluded that this phenomenon exists because "citizens [trust] that other

147. I.R.S, Publ'n 55B, Data Book 2020, *supra* note 142, at 70.
148. *See* Cecil & King, *supra* note 102.
149. *See* I.R.S, Publ'n 55B, Data Book 2020, *supra* note 142 at 33.
150. *See* I.R.S., Publ'n 55B, Data Book 2010 *supra* note 140, at 22.
151. *See* I.R.S, Publ'n 55B, Data Book 2020, *supra* note 142, at 46.
152. *See* Cecil & King, *supra* note 102.
153. *See* I.R.S., Publ'n 55B, Data Book 2010, *supra* note 140, at 41.
154. I.R.S, Publ'n 55B, Data Book 2020, *supra* note 142, at 59 tbl. 25.
155. *Id.*
156. *See* PEW RSCH. CTR., *supra* note 20.
157. Pub. L. No. 115-97, 131 Stat. 2054 (2017).
158. PEW RSCH. CTR., *supra* note 20.
159. *Id.*
160. *Id.*
161. *See* BUTTIGIEG, *supra* note 16, at 156.
162. *Id.* at 157.

citizens also contribute to the economy through the tax system, and that public authorities manage tax revenues in a fair and efficient way, free from corruption."[163]

Economist Lars Calmsfors posits that this difference exists because the Nordic model is fundamentally different from how other countries function.[164] He characterizes the model as one that provides generous public services funded by high taxes to citizens who enjoy high levels of social protection.[165] Calmfors also notes that an openness to trade and technological change plays a role.[166] The result is that nations such as Iceland and Denmark experience high employment rates, equitable income distribution, and stronger gender equality.[167] The Nordic model has also yielded effective management of public finances, particularly during international economic crises.[168]

Another very significant aspect that differentiates the Nordic countries from other nations around the world is their level of trust.[169] Calmsfors notes that not only is trust "a structural feature to the extent that it lowers transaction costs as well as facilitates decision-making in various areas," but it also can "be seen as an outcome variable, as outcomes that are regarded as desirable by most people are likely to foster a high degree of trust."[170] A comparison of the degree of trust that European countries report vis-à-vis people, politicians, and the legal system shows that the Nordic countries rank at the top by a significant margin.[171]

Studies have focused on the key Nordic model element because of the strong relationship scholars have noted between trust, societies, and economics.[172] Researcher Robert Putnam believes that trust is one of three elements that make up a society's social capital.[173] The concept of trust has typically aligned with neoclassical economic theory, and shortcomings in this space have led those who examine it to reassess the way that they think about the concept.[174] One new distinction is the idea of "social trust," or "the degree to which people trust people who they do not know."[175] Some coin the term "general trust," but the idea remains the same—social trust is a tool through which academics can conceptualize a person's innate perception of human nature.[176]

163. ANDREASSON, *supra* note 19, at 21.

164. *See id.* at 10.

165. Lars Calmsfors, *How Well is the Nordic Model Doing? Recent Performance and Future Challenges*, *in* THE NORDIC MODEL: CHALLENGED BUT CAPABLE OF REFORM 17, 17 (Tarmo Valkonen and Vesa Vihriälä eds., 2014).

166. *Id.* at 17–18.

167. *Id.* at 18.

168. *See id.* at 17.

169. ANDREASSON, *supra* note 19, at 10.

170. Calmsfors, *supra* note 165, at 27.

171. *See id.* at 85.

172. *See* ANDREASSON, *supra* note 19, at 10.

173. *See id.*

174. *See id.* at 10–11.

175. *Id.* at 11.

176. *Id.*

When a country has a high level of social trust, it can enjoy a variety of different benefits.[177] These benefits aid both the individual and society.[178] For individuals, social trust boosts happiness, simplifies collaboration, increases altruistic preferences, and promotes a greater sense of control over life outcomes.[179] Its societal benefits include stimulated political engagement and democratic development, and a reduced level of criminality.[180]

The economy is one major area of society that can benefit from social trust.[181] The most prominent positive effect is "that society is less characterized by formalities, conflicts, and legal processes."[182] This effect occurs because trust represents "an absence of the need to verify other people's actions."[183] In other words, social trust reduces transaction costs or costs associated with ensuring compliance with agreements.[184] A country that enjoys a high level of social trust does not need to dedicate as much of its resources to guaranteeing laws are followed,[185] which permits its workforce to allocate its time to more productive work and boosts economic output.[186]

The effect of social trust on a country's economy can play a role in how its tax system functions.[187] Guido Tabellini notes that a country that enjoys higher social trust has a more trustworthy citizenry.[188] Citizens of these countries practice a type of morality which shapes their behavior by fostering a reluctance to free ride on others.[189] For example, they are less likely to cheat on their taxes.[190] Conversely, when a country's social trust declines, citizens may begin to believe that others are free riding,[191] making them less likely to pay their taxes willingly.[192]

Bo Rothstein captures how this phenomenon plays out in the Nordic country of Sweden.[193] He notes that the Swedish National Tax Board in 1997 collected 98.7% of tax liabilities.[194] This high voluntary compliance rate stems from "a widespread belief

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177. *Id.*

178. *See id.*

179. *Id.* at 11–12.

180. *See id.* at 12.

181. *See id.* at 11; *see also* Guido Tabellini, *Culture and Institutions: Economic Development in the Regions of Europe*, 8 J. OF THE EUROPEAN ECON. ASS'N 677 (2010) (discussing how a culture characterized by social trust drives economic development); *but see* Felix Roth, *Does Too Much Trust Hamper Economic Development?*, 62 KYKLOS 103, 124 (2009) (concluding that an increase in social trust for countries that enjoy high levels can stifle economic performance).

182. ANDREASSON, *supra* note 19, at 11.

183. *Id.*

184. *Id.*

185. *See id.*

186. *Id.*

187. Tabellini, *supra* note 181, at 684; ANDREASSON, *supra* note 19, at 18.

188. Tabellini, *supra* note 181, at 684.

189. *See id.*

190. *Id.*

191. ANDREASSON, *supra* note 19, at 18.

192. *Id.*

193. BO ROTHSTEIN, SOCIAL TRAPS AND THE PROBLEM OF TRUST 2 (2005).

194. *Id.*

that the tax administration was competent and compelled most other citizens to pay."[195] Citizens pay because they generally believe others will pay what they owe.[196] In other words, "citizens will meet obligations to the collective despite the temptation to free ride as long as they trust other citizens and political leaders to keep up their side of the social contract."[197]

A comparison between the Nordic countries and the United States illustrates how stark the trust difference is as a result of different societal models.[198] A study detailed by Rothstein calculated social trust levels across several different countries.[199] It shows that the United States has about half the level of social trust that Norway, Sweden, and Denmark have.[200] The United States also has a greater level of inequality.[201] The study concluded that a relationship exists between social trust and inequality, and that greater inequality is the largest determinant of the lower levels of trust that the United States exhibits.[202]

D. *Participatory Budget Model*

IRS Oversight Board data indicates that in the United States, expecting citizens to pay their taxes without incentives to do so is likely unrealistic.[203] Ninety-six percent of respondents in a 2005 poll agreed with the statement: "It is every American's civic duty to pay their fair share of taxes."[204] Similarly, 93% said that "everyone 'who cheats on their taxes should be held accountable.'"[205] Despite the belief that all American citizens should honor the federal tax system expressed in these responses, additional data indicates that a sense of responsibility alone is insufficient to yield compliance.[206] The poll also found that "fear of an audit" motivated 62% of respondents to fulfill their tax liability.[207] Sixty-eight percent said that third-party reporting led them to pay their taxes.[208]

Economist Joel Slemrod notes that while incentives may be positive or negative, the former is more effective in tax compliance.[209] He begins by stating that evidence

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195. *Id.*

196. *Id.*

197. *Id.*

198. Bo Rothstein & Eric Uslaner, *All for All: Equality, Corruption, and Social Trust*, 58 WORLD POL., 41, 49 (2005).

199. *Id.*

200. *Id.*

201. *Id.*

202. *Id.*

203. Stephen J. Dubner & Steven D. Levitt, *Filling in the Tax Gap*, N.Y. TIMES (Apr. 2, 2006), https://www.nytimes.com/2006/04/02/magazine/filling-in-the-tax-gap.html [https://perma.cc/56Q7-XXBV].

204. *Id.*

205. *Id.*

206. *Id.*

207. *Id.*

208. *Id.*

209. *See* Stephen J. Dubner, *How to Hate Taxes a Little Bit Less (Ep. 400)*, FREAKONOMICS (Dec. 11, 2019, 11:00 AM), https://freakonomics.com/podcast/hate-taxes-less/ [https://perma.cc/H55E-43WU].

indicates the latter, or "the stick," generally works better to motivate behavior.[210] However, the reality at the IRS prevents the agency from implementing this type of incentive effectively.[211] Today, the agency does not have a strong enough "stick" to influence behavior in a meaningful way.[212] Since 2010, the IRS budget has decreased by over 20%, and audits are down by one-third.[213] Additionally, the penalty for nonpayment is simply paying what is owed plus a small extra cost.[214]

Marketing professor Cait Lamberton echoes the benefit of positive incentives on federal income tax system compliance.[215] She notes that research conducted on social pressure shows that when the perception is that everyone else in society is paying their taxes, people believe that they should too.[216] Lamberton cites trust in government as a factor that can also play a role.[217] She argues that if someone does not trust their government, they may feel less inclined to give them what they owe.[218] Lastly, Lamberton explains that a desire to avoid negative emotions, such as shame, can motivate someone to pay their taxes.[219]

A study conducted by Lamberton illustrates that eliciting taxpayer input on how public dollars should be spent can similarly increase compliance.[220] One experiment found that allowing a group to express preferences over spending priorities led to a 16% compliance increase.[221] A follow-up simulation concluded that allowing taxpayers to provide input on government spending saw a 15% reduction in a tax loophole take-up rate.[222] Lamberton's theory behind these results is that providing taxpayers with agency allows them to make a clearer connection between tax payments and public services provided, decreases anti-tax sentiment, and makes satisfaction with tax payment more stable despite increased compliance.[223]

Providing taxpayers with a say in how the government spends the money it collects is not limited to an experimental setting but rather occurs around the world as what is known as participatory budgeting.[224] Participatory budgeting is a process that allows members of a community to decide how part of a government's budget is allocated.[225] It was founded in Brazil in 1989 and has since spread to over 7,000 cities around the

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210. *Id.*

211. *See id.*

212. *See id.*

213. *Id.*

214. *Id.*

215. *See id.*

216. *Id.*

217. *Id.*

218. *See id.*

219. *See id.*

220. Cait Lamberton, Jan-Emmanuel De Neve & Michael I. Norton, *Eliciting Taxpayer Preferences Increases Tax Compliance* 1 (Harv. Bus. Sch., Working Paper No. 14-106, 2014), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2365751 [https://perma.cc/Q9J7-CRPT].

221. *Id.* at 19–20.

222. *Id.* at 21.

223. *See id.* at 2–3.

224. *See* Dubner, *supra* note 209.

225. *What is PB?*, PARTICIPATORY BUDGETING PROJECT, https://www.participatorybudgeting.org/what-is-pb/ [https://perma.cc/WT25-ME45] (last visited Apr. 1, 2023).

world.[226] Participatory budgeting has been used to influence budgets in states, countries, cities, housing authorities, schools, and other institutions.[227] It works by incorporating deeper public engagement into a regular budgeting process to strengthen democracy and yield a more equitable distribution of government-provided resources.[228]

Participatory budgeting occurs primarily at the state and local levels and has been effective in these contexts.[229] One place that the International Budget Partnership, an international group that advocates for budget processes that represent the public interest,[230] highlighted for its strong use of participatory budgeting is Lima, Peru.[231] The Lima city government created an online voting platform that allowed citizens to provide input on potential public projects.[232] When two project consultations were shared on the online platform, between 13,000 and 17,000 voters made their voices heard.[233] While these numbers are small relative to the 6.3 million eligible voters in Lima, they still represent progress.[234] Activist Vilma Gonzales de Huajardo notes that this level of citizen input in Lima's budget would have been impossible five or ten years before the platform's creation.[235]

The United States has also recognized participatory budgeting as a commendable process.[236] The Participatory Budgeting Project (PBP) notes that the federal government, think tanks, educational institutions, and advocacy organizations across the country consider their work to advance participatory budgeting "a best practice in civic engagement."[237] It also states that its clients include the New York City Council, the City of Oakland, the City of Seattle, and the City of Boston, among others.[238] New York City Council created Participatory Budgeting in New York City (PBNYC) in 2011 to allow community members to impact the city's capital budgeting process directly.[239] Today,

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226. *Id.*

227. *Id.*

228. *Id.*

229. Rebecca Warner, *Participatory Budgeting: Democracy in Action*, INT'L BUDGET P'SHIP (Aug. 3, 2017), https://internationalbudget.org/2017/08/participatory-budgeting-democracy-in-action/ [https://perma.cc/UDM7-BQMD].

230. *About Us*, INT'L BUDGET P'SHIP, https://internationalbudget.org/about-us/ [https://perma.cc/8PJ9-95EJ] (last visited Apr. 1, 2023).

231. Jacob Bathanti, *Lima's Participatory Budgeting Initiative Boosts Civic Optimism and Youth Participation*, INT'L BUDGET P'SHIP (Nov. 8, 2013), https://internationalbudget.org/2013/11/limas-participatory-budgeting-initiative-boosts-civic-optimism-and-youth-participation/ [https://perma.cc/8Y28-Z38V].

232. *Id.*

233. *Id.*

234. *Id.*

235. Jacob Bathanti, *Lima Mayor's Office Uses Innovative Technology to Expand Participatory Budgeting*, INT'L BUDGET P'SHIP (June 20, 2013), https://internationalbudget.org/2013/06/lima-mayors-office-uses-innovative-technology-to-expand-participatory-budgeting/ [https://perma.cc/XC2C-4BQR].

236. *See* PARTICIPATORY BUDGETING PROJECT, WHAT IS PARTICIPATORY BUDGETING? 2, https://www.participatorybudgeting.org/what-is-pb/general-pb-info-sheet/ [https://perma.cc/V66T-YK5W] (last visited Apr. 1, 2023).

237. *See id.*

238. *Id.*

239. *Participatory Budgeting*, N.Y. CITY COUNCIL, https://council.nyc.gov/pb/ [https://perma.cc/4ZKF-KF5J] (last visited Apr. 1, 2023).

PBNYC provides citizens with the agency to influence how over thirty million dollars in taxpayer funds are spent.[240]

III. DISCUSSION

This Section argues that the United States can increase taxpayers' voluntary compliance by boosting tax system buy-in through participatory budgeting. Part III.A considers how strong taxpayer buy-in in the Nordic countries yields high voluntary compliance and posits that the United States can achieve similar results if it changes the poor sentiments that American taxpayers hold toward its system. Part III.B outlines how participatory budgeting in the federal income tax system could help to work toward that goal by providing U.S. citizens with spending agency that would boost their level of buy-in.

A. The United States Can Increase Voluntary Compliance by Fostering Greater Taxpayer Buy-In

While the U.S. federal income tax system is most fundamentally based on the notion of the ability to pay, it should also be fair and seek to minimize its tax gap.[241] Research illustrates that U.S taxpayers do not feel that the system is fair,[242] and the tax gap measures in the hundreds of billions.[243] Assuming the United States seeks to pursue good tax policy,[244] it must address these issues. One effort the federal government can undertake is increasing taxpayer compliance.

When attempting to minimize the tax gap by boosting compliance, it is important first to consider what causes the phenomenon and how those causes can be mitigated.[245] Because individuals contribute the most to the tax gap,[246] efforts to increase voluntary compliance should be focused on this group. The diminished capacity of the IRS creates a situation in which tackling the tax gap through enforcement action and other negative consequences might not be the most realistic approach.[247] Thus, the federal government should increase voluntary compliance through positive incentives or other benefits that reward taxpayers for fulfilling their tax liability. With this analysis in mind, the federal government should mitigate the tax gap by focusing on how to incentivize individuals to voluntarily fulfill their liabilities.

The Nordic model illustrates that this outcome can be accomplished by boosting system buy-in.[248] Trust between citizens and the government is crucial to the Nordic

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240. *Id.*

241. See *supra* Part II.A for a discussion of fundamental tax policy principles.

242. PEW RSCH. CTR., *supra* note 20.

243. INTERNAL REVENUE SERV., *supra* note 12.

244. *See generally* ASS'N OF INT'L CERTIFIED PRO. ACCTS., *supra* note 56.

245. See *supra* Part II.B.2 for an analysis of the tax gap and its causes.

246. See *supra* Part II.B.2.a for a further breakdown of the tax gap by type of taxpayer.

247. See *supra* notes 178–183 for a discussion on how a weakened IRS makes it so increasing taxpayer compliance through negative incentives might not be realistic.

248. See *supra* Part II.C for a discussion of the Nordic Model's high voluntary tax compliance rate and its underlying causes.

countries' positive tax outcomes[249] and something that the United States greatly lacks.[250] This difference between the United States and the Nordic countries shows what the United States could achieve in terms of tax compliance if it increased individual taxpayer buy-in.[251] While Nordic country citizens believe their governments manage tax revenues fairly and efficiently,[252] U.S. citizens do not feel the same.[253] Although an overwhelming amount of Americans believe that everyone should pay what they owe in taxes,[254] a large tax gap remains.[255] This dissonance, when considered in conjunction with what occurs in the Nordic countries, hints that a failure by the U.S. government to prove to its citizens that paying taxes is worth the cost may be an underlying issue.[256] In other words, the fact that Americans do not believe that they benefit from the federal tax system leads some to choose not to fulfill their civic duty.

Assuming the tax gap is fueled by American taxpayers' belief that they do not receive a high value for what they contribute in tax liability, the federal government can address the issue by changing this perception.[257] One way that it can accomplish this effort is by convincing the public that the government manages revenues that it collects from them fairly, just as in the Nordic countries.[258] If the government can successfully lead this initiative, American citizens may buy more into the system because they believe their contributions are worthwhile.[259] This change could help close the tax gap by incentivizing U.S. citizens to voluntarily comply with paying what they owe in taxes.[260]

B. A Participatory Budget Allocation Model Can Increase Taxpayer Buy-In

Although participatory budgeting in the United States has been limited to states and localities, there does not appear to be any reason why it could not be adopted at the federal level.[261] Employing some form of participatory budgeting into the federal tax system could help boost its perceived fairness by creating a mechanism through which the public could influence how the government spends its tax dollars. This addition to the federal tax system would address the fairness issue[262] by compelling the government to allocate funds in a way that the taxpayers feel is appropriate. If the public feels their taxpayer dollars are going toward worthwhile spending, they will feel more bought into the system. As a result, voluntary compliance could be more likely.

Incorporating participatory budgeting into the federal income tax system could work at the federal level because there is already a mechanism on federal income tax

249. *See* ANDREASSON, *supra* note 19, at 18.
250. Rothstein & Uslaner, *supra* note 198, at 49.
251. *See* BUTTIGIEG, *supra* note 16, at 157–59.
252. *Id.* at 157.
253. *See* PEW RSCH. CTR., *supra* note 20.
254. *See* Dubner & Levitt, *supra* note 203.
255. *See* I.R.S., Publ'n 1415, *supra* note 74.
256. *See* BUTTIGIEG, *supra* note 16, at 158.
257. *See id.* at 160.
258. *See* ANDREASSON, *supra* note 19, at 21.
259. *See* BUTTIGIEG, *supra* note 16, at 160.
260. Dubner, *supra* note 209.
261. *See id.*
262. *See* PEW RSCH. CTR., *supra* note 20.

filing forms that would enable it.[263] These forms allow taxpayers to direct a small portion of their tax liability to the presidential election fund.[264] Form 1040 provides for this option by directing the individual filer to check a box if they or their spouse filing jointly wants to provide three dollars to the fund.[265] The federal government could expand this simple expression of agency further to implement some form of participatory budgeting.[266] The government would only need to amend Form 1040 to provide an additional section where taxpayers could provide their input on how they would prefer their tax liability be allocated.

Taxpayers could participate in the participatory budgeting process on their Form 1040 by indicating a desire to direct a portion of their tax liability to a specific government agency or function.[267] For example, a citizen who believes that education is an important cause might designate their tax liability to the U.S. Department of Education, or someone who wants to support our troops could mark down the military. Lamberton's experiments indicate that providing taxpayers with this type of input could increase compliance.[268] Providing input on how the federal government spends taxpayer dollars would give taxpayers a form of agency they do not currently have. The positive correlation between agency and compliance would, in turn, lead to a higher compliance rate.[269]

Not all necessary government spending is inherently appealing.[270] Therefore, there would need to be some cap on the amount an individual could allocate to their chosen category to ensure that participatory budgeting would not completely derail how the federal government currently spends money.[271] For example, taxpayers are more likely to favor education, medical, or military spending as opposed to paying down the national debt or funding long-term infrastructure projects.[272] Without a cap, certain spending categories might receive little to no funding, which would harm government operations. Lamberton suggests that 10% of a person's total tax bill is appropriate.[273]

Incorporating participatory budgeting in this way might have the positive impact of providing taxpayers with greater agency and also might result in government agencies feeling a greater sense of accountability to their people.[274] A similar tax mechanism implemented in Japan and the effects that it caused illustrates that various federal departments might subsequently lead marketing campaigns to compete for taxpayer allocation amounts.[275] These campaigns could entail public outreach and education to

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263. *See* Dubner, *supra* note 209.

264. *See id.*

265. INTERNAL REVENUE SERV., DEP'T OF THE TREASURY, FORM 1040: U.S. INDIVIDUAL INCOME TAX RETURN (2022), https://www.irs.gov/pub/irs-pdf/f1040.pdf [https://perma.cc/8DMC-QYS2].

266. *See* Dubner, *supra* note 209.

267. *Id.*

268. *Id.*

269. Lamberton, *supra* note 220.

270. Dubner, *supra* note 209.

271. *Id.*

272. *Id.*

273. *Id.*

274. *Id.*

275. *Id*.

allow citizens to better understand what the government does to provide value to their lives. As a result, Americans would benefit from having an increased awareness of what the government does to help them as individuals and society at large.[276]

This greater awareness of how the government serves the public could improve the relationship between the average citizen and the government.[277] The reality is that if the federal government adopted participatory budgeting, it could work during the first taxable year because taxpayers believe the government will be responsive, but then fail in subsequent years because no perceived changes occur.[278] While this result might lead to greater frustration among taxpayers, it is also possible that backlash might result in a forced conversation between the public and the government.[279] This conversation could provide taxpayers with an opportunity to hold a government that they do not believe is spending public dollars in a way that is aligned with their preferences accountable.[280]

Regardless of how taxpayers might respond in the short- or long-term to this new form of agency through participatory budgeting, the federal government should implement it because even a slight marginal benefit would likely outweigh the costs imposed. This prediction means that participatory budgeting would either have a neutral or positive outcome. It is hard to imagine a situation in which eliciting taxpayer voice would lead to a negative effect. An amendment to Form 1040 to include a space for taxpayers to indicate their preferences is the only direct cost this effort would impose. Additional indirect costs might come in the form of communication and outreach. Nonetheless, these combined direct and indirect costs would certainly be less than spending on traditional compliance actions, such as audits or collections activity.

IV. CONCLUSION

As of 2022, the United States's individual income tax system does not live up to the ideals it was designed to embody. The federal government can alleviate this issue by considering how it can design its tax system to yield more similar outcomes to those enjoyed by the Nordic Model countries. One key effort to making this change could be to provide taxpayers with greater agency over public spending. The best way to provide this agency is by implementing participatory budgeting into the individual income tax filing process. Implementing participatory budgeting could result in a more trusting relationship between individual income taxpayers and the federal government over time, which may lead, in turn, to an increase in taxpayer voluntary compliance. Fuller voluntary compliance would close the tax gap and help to tackle its negative consequences. This change could improve the United States' ability to spend and better ensure that all taxpayers contribute to revenues in a way that is consistent with their ability to pay.

276. *Id.*
277. *Id.*
278. *Id.*
279. *Id.*
280. *Id.*