

# Using Tax Policy to Fund Reparations

AB 3121 TASK FORCE TO STUDY AND DEVELOP REPARATIONS  
PROPOSALS FOR AFRICAN AMERICANS

Friday, January 27, 2023  
1:45 to 2:45pm PT

**WITNESSES:**

**Sarah Moore Johnson**  
Birchstone Moore LLC  
Washington, DC

**Raymond C. Odom**  
Northern Trust  
Chicago, IL

# Agenda

I. Paradox of American Wealth

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II. Brief History of Tax Policy

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III. Estate Tax: Taxing “Swollen” Wealth

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IV. Earmarking Estate Tax For Reparations

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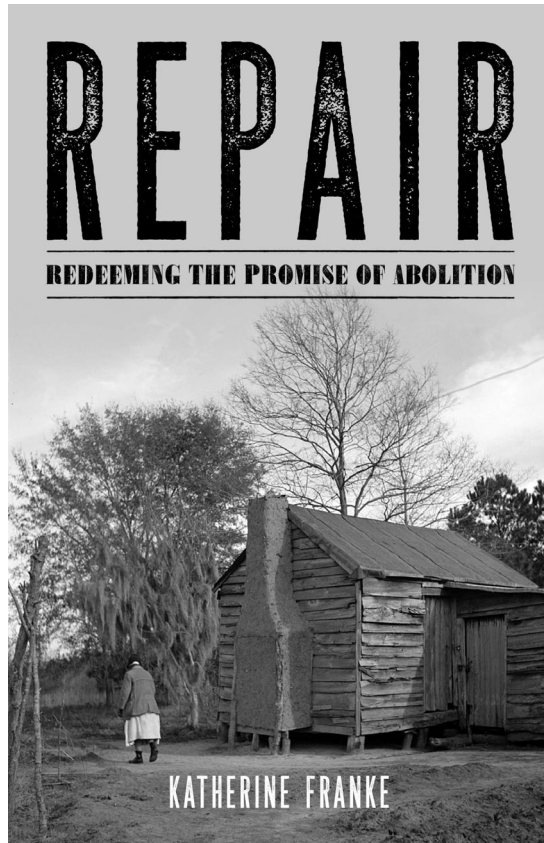
V. Using New Charitable Incentives to Help America Repay Its Debt

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Taxing  
“Swollen” Wealth  
To Replace  
“Stolen” Wealth

# Why Have Estate Planners as Witnesses?

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# The Paradox of Wealth Imperatives As Illustrated by Thomas Jefferson

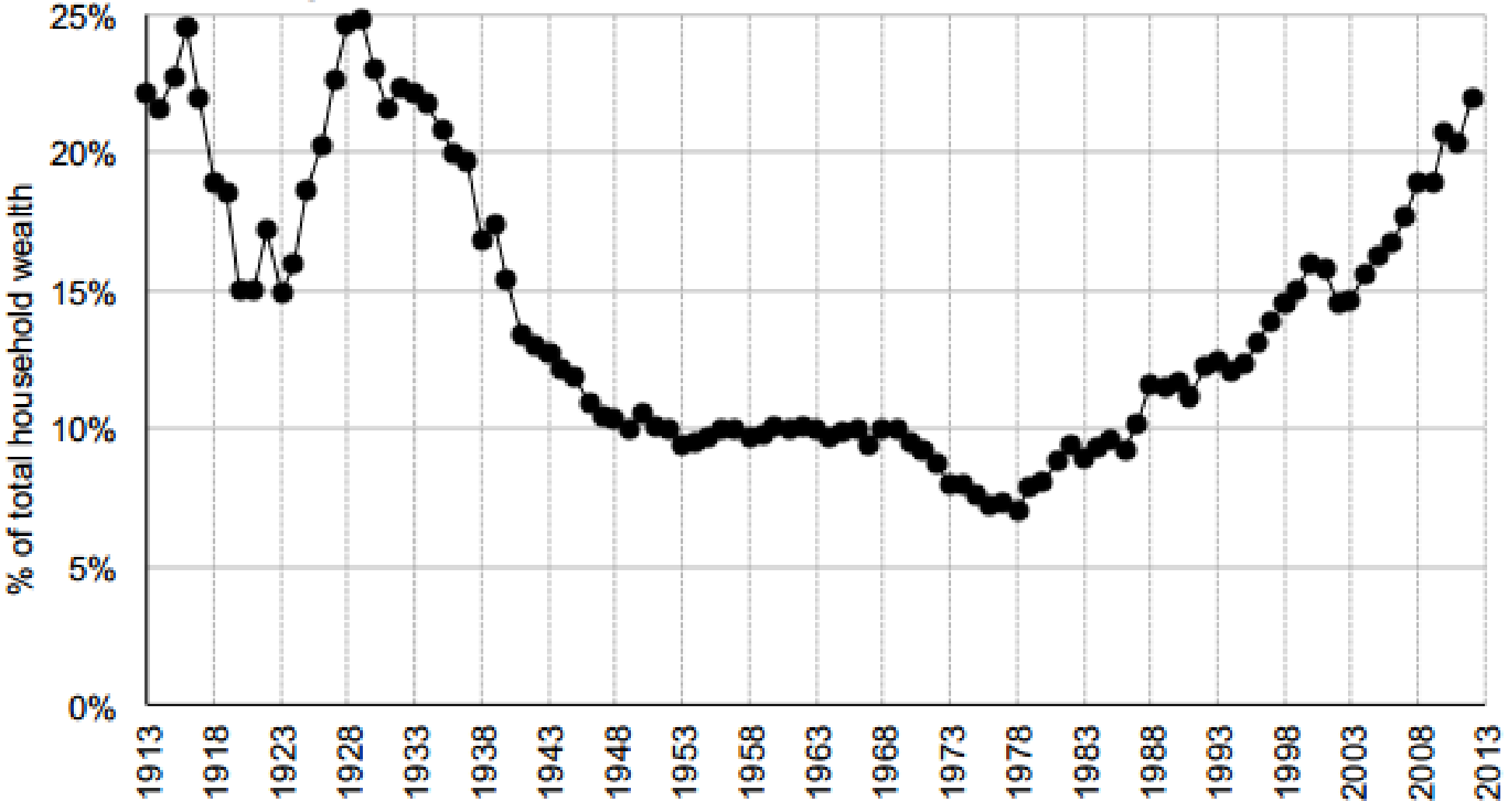
## The Imperative To Prevent Swollen Wealth

- Rejection of Inherited Hereditary Privileges of European Feudalism . . . except
- Small Farmer Necessity for Democratic Equitability . . . except
- Economic Equitability - equal starting line for all land-owning white men . . . except

## The Imperative To Protect Stolen Wealth

- **Life, Liberty and the Necessity of Servitude**
  - American colonies create chattel-slavery instead of aristocrats and peasants
  - “The commodification, suffering and forced labor of African Americans... made the United States rich and powerful” – *Edward E. Baptist, The Half Has Never Been Told*

### Top 0.1% wealth share in the United States, 1913-2012



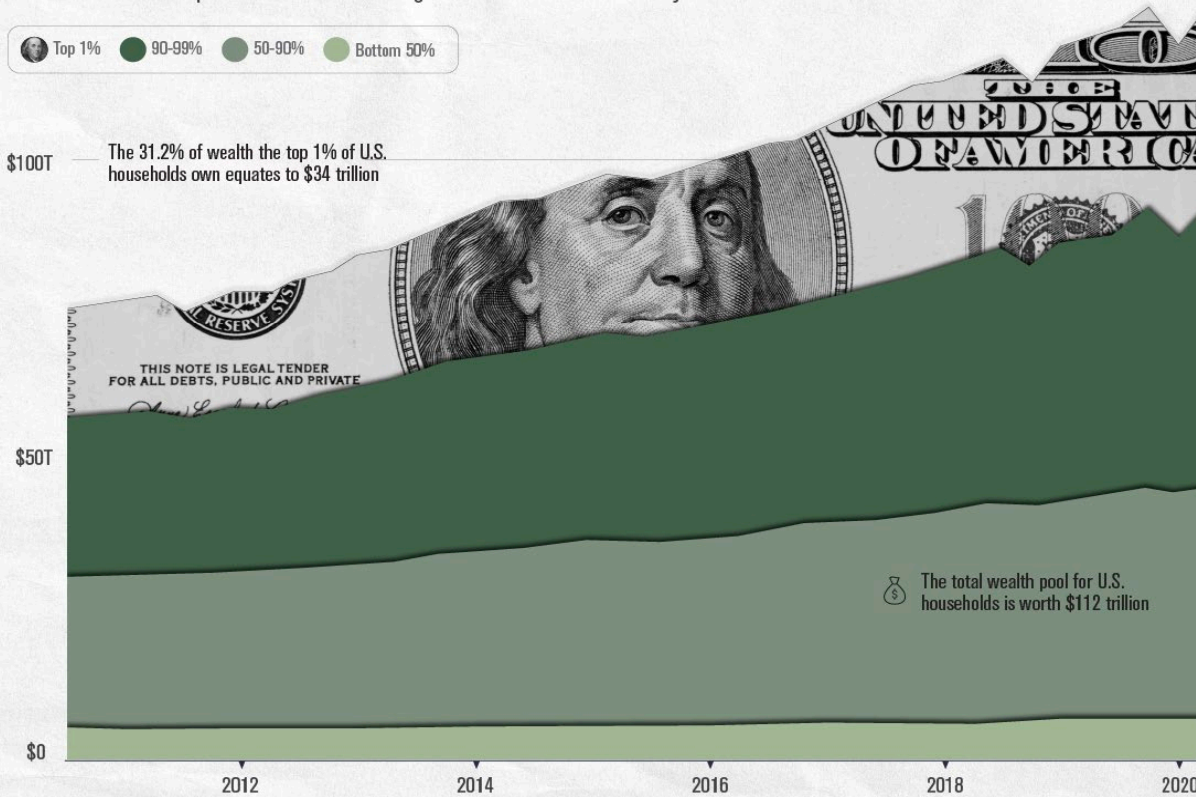
This figure depicts the share of total household wealth held by the 0.1% richest families, as estimated by capitalizing income tax returns. In 2012, the top 0.1% includes about 160,000 families with net wealth above \$20.6 million. Source: Appendix Table B1.

## What the Data Says About Wealth Inequality

Wealth inequality has ebbed and flowed throughout history. In the last decade, the top 1% of U.S. households' portion of total wealth has gone from 28.6% to 31.2% today.



\$100T — The 31.2% of wealth the top 1% of U.S. households own equates to \$34 trillion



Source: The FED



# Comparison of White and Nonwhite Household Median Net Worth in Los Angeles Metropolitan Area

- Racial and ethnic differences in net worth show the extreme financial vulnerability faced by some nonwhite households.
- U.S. Black and Mexican households have 1 percent of the wealth of whites in Los Angeles—or one cent for every dollar of wealth held by the average white household in the MSA.



## The Color of Wealth in Los Angeles

Melany De La Cruz-Viesca  
Zhenxiang Chen  
Paul M. Ong  
Darrick Hamilton  
William A. Darity Jr.

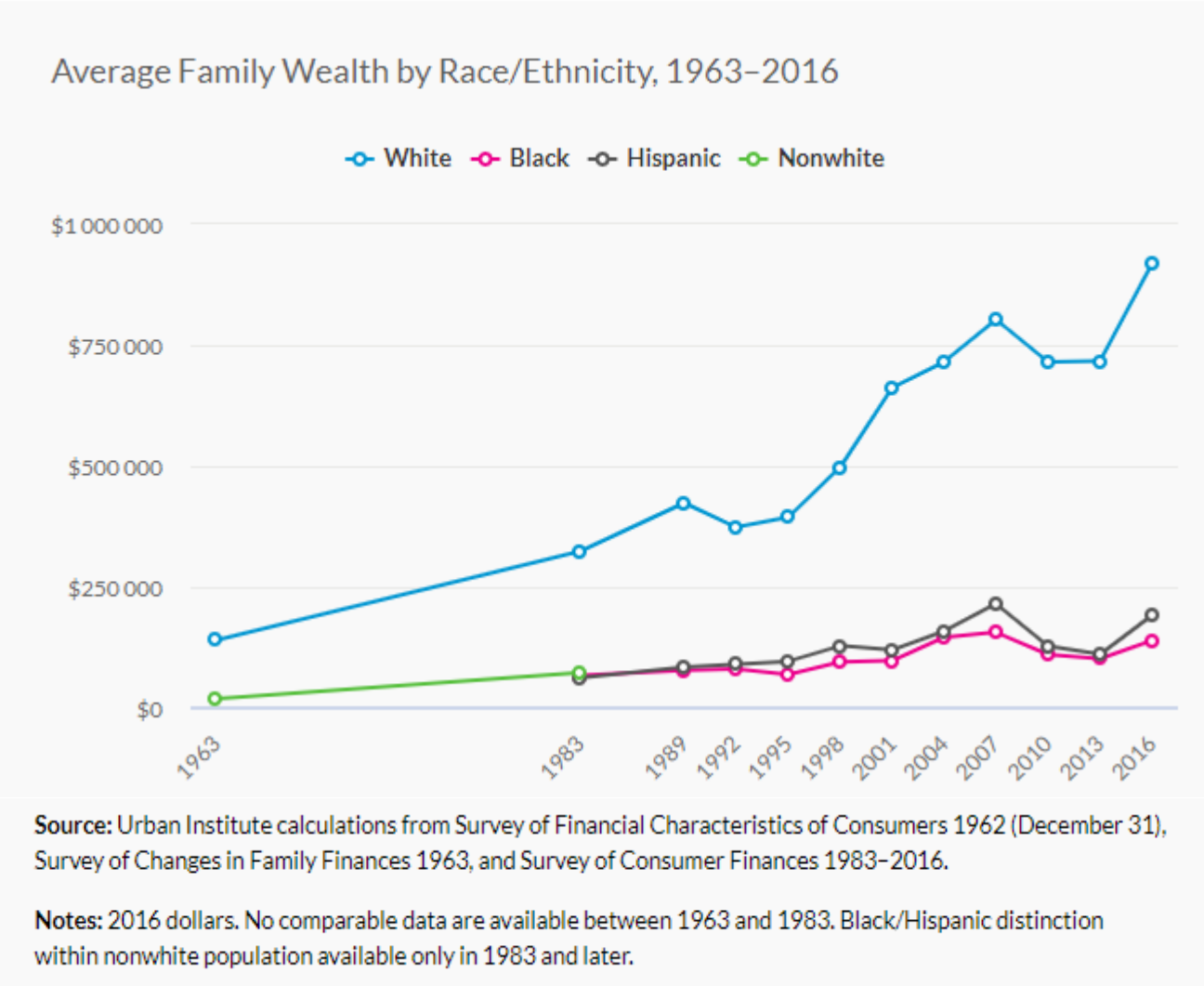
	Amount	Nonwhite household percentage of white household median net worth
White	355,000	100.0
U.S. Black	4,000	1.1**
African Black	72,000	20.3
Mexican	3,500	1.0**
Other Latino	42,500	12.0*
Chinese	408,200	115.0
Japanese	592,000	166.8
Korean	23,400	6.6**
Vietnamese	61,500	17.3*
Filipino	243,000	68.5
Asian Indian	460,000	129.6

# Black People Are The Most Disparate in America's Wealth Disparity

In 2019, the average White household wealth was **\$812,000** more than the average Black household

Aditya Aladangady and Akila Forde, "Wealth Inequality and the Racial Wealth Gap," FEDS Notes. Washington: Board of Governors of the Federal Reserve System, October 22, 2021

<https://doi.org/10.17016/2380-7172.2861>.



**2019 Average Wealth Amounts:**

White	\$953K
Hispanic	\$192K
Black	\$141K



# Wealth Concentration Correlates with Tax Policy

**1913**

Enactment of Income Tax of 6% on incomes over \$500K

**1916**

Enactment of Estate Tax on estates over \$50K

**1932-81**

Top income tax rate ranged from 63% to 94% (1944)

**1978**

California passes Proposition 13 as Tax Revolt begins

**1981**

Reagan's Economic Recovery Tax Act (ERTA) enacted - biggest tax cut in American history

**FIGURE 2**

## Highest Federal Marginal Individual Income Tax Rate

Tax years 1913 – 2020



**Sources:** Joseph Pechman, *Federal Tax Policy*; Joint Committee on Taxation, Summary of Conference Agreement on the Jobs and Growth Tax Relief Reconciliation Act of 2003, JCX-54-03, May 2003; IRS Revenue Procedures, various years.

**Notes:** This figure contains a number of simplifications and ignores factors such as the amount of income or types of income subject to the top rates, or the value of standard and itemized deductions.

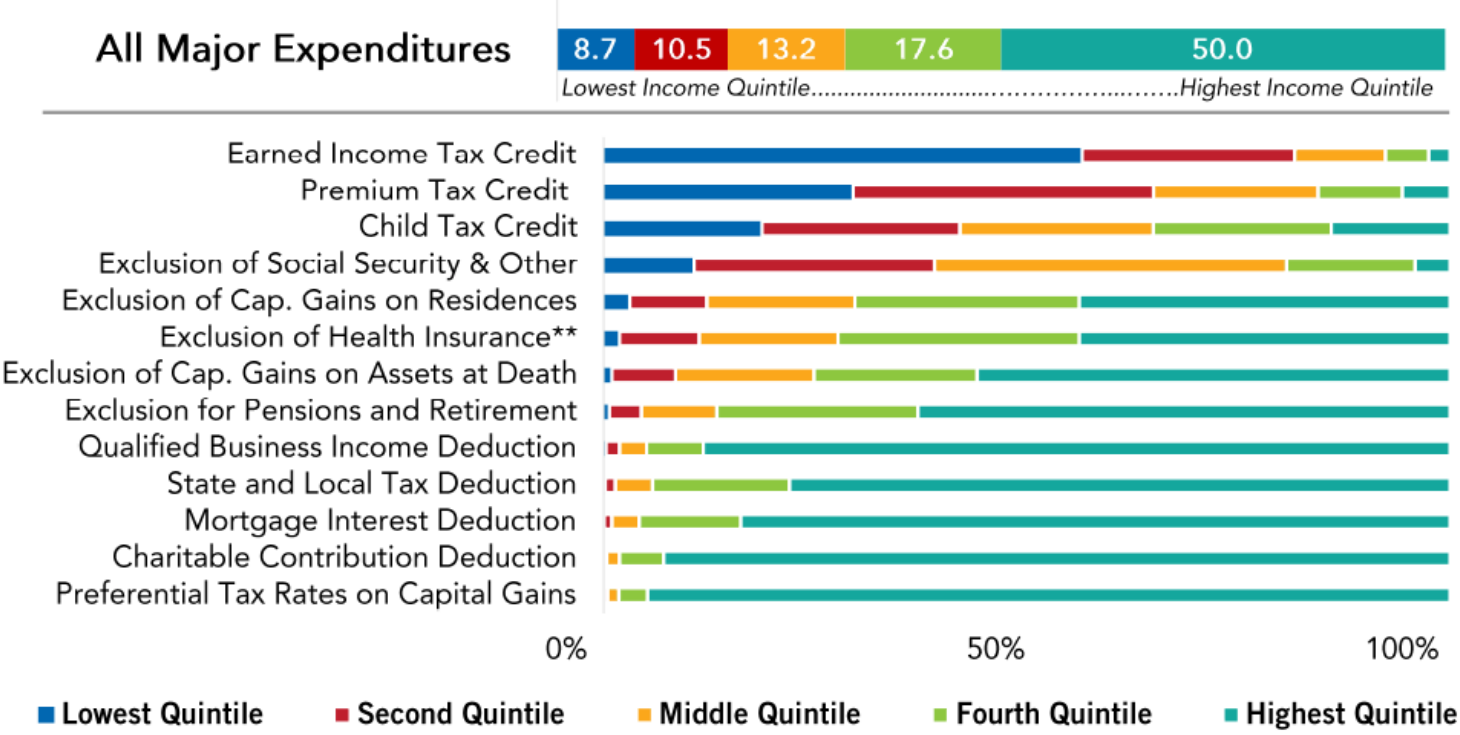
Updated May 2020

Expenditures  
Subsidize  
the Wealthy



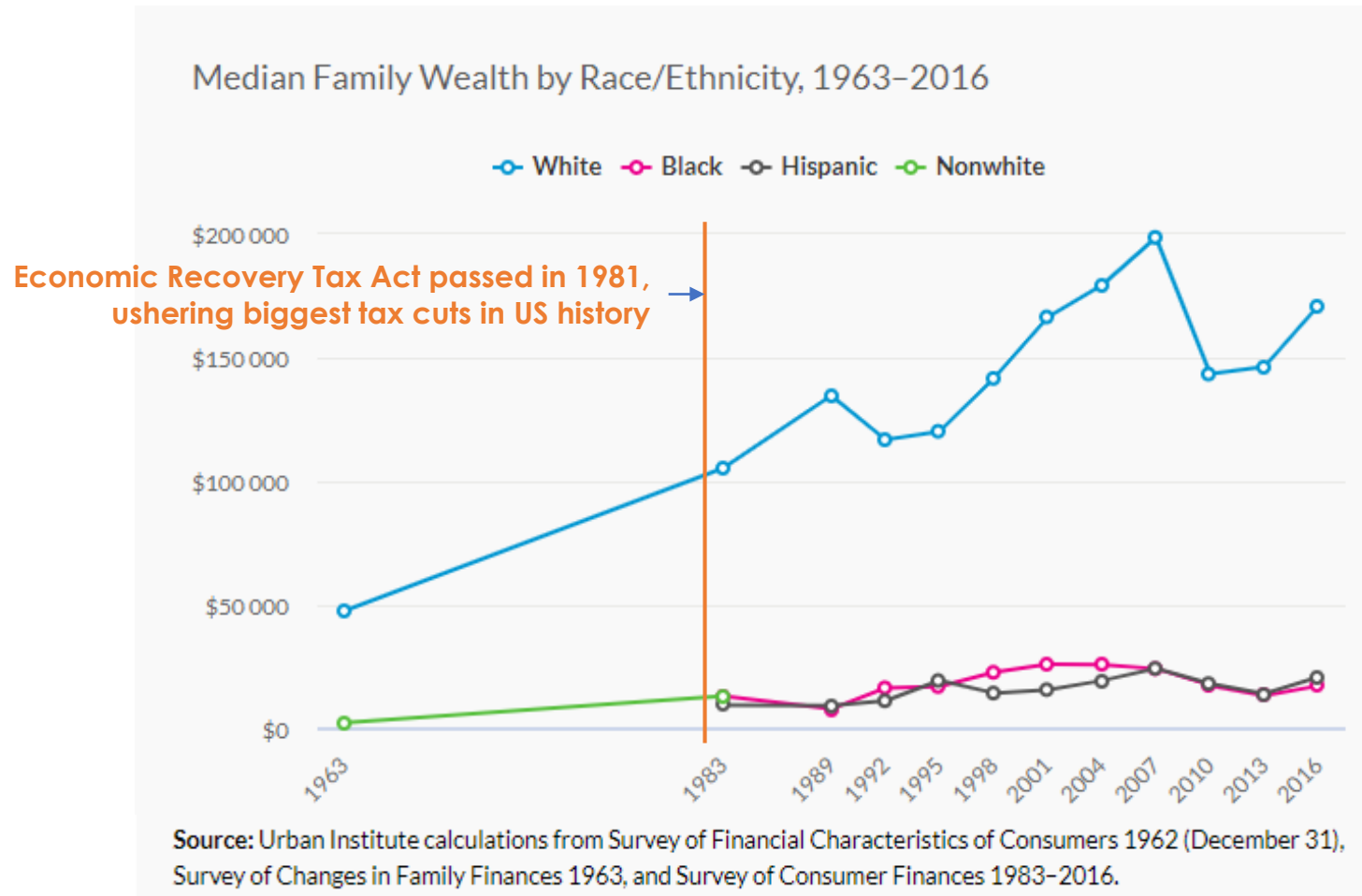
The top 20 percent of income earners receive half the value of major income expenditures analyzed by CBO

SHARE OF MAJOR TAX EXPENDITURES\* (%)

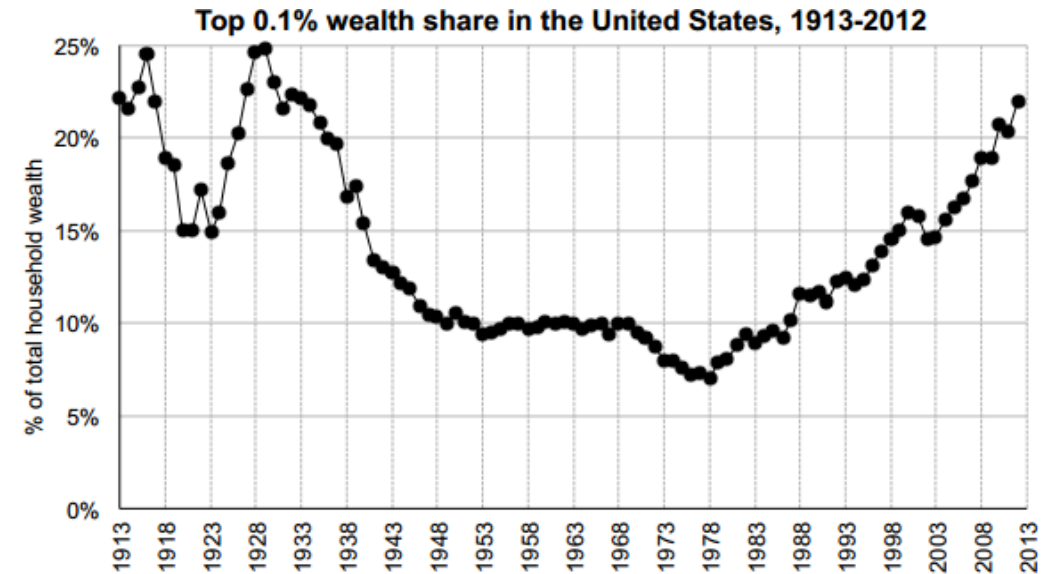


SOURCE: Congressional Budget Office, *The Distribution of Major Tax Expenditures in 2019*, October 2021.  
 NOTES: Data are for 2019. \*Major tax expenditures here are the thirteen with the largest effects on individual income taxes for FY2019, as defined by CBO's report. \*\*Exclusion of health insurance here refers to employer-sponsored health insurance. A quintile is one-fifth of the population. The breaks for a one person household are (in 2019 dollars): 20% \$28,084; 40% \$53,503; 60% \$86,488; 80% \$142,501.  
 © 2022 Peter G. Peterson Foundation

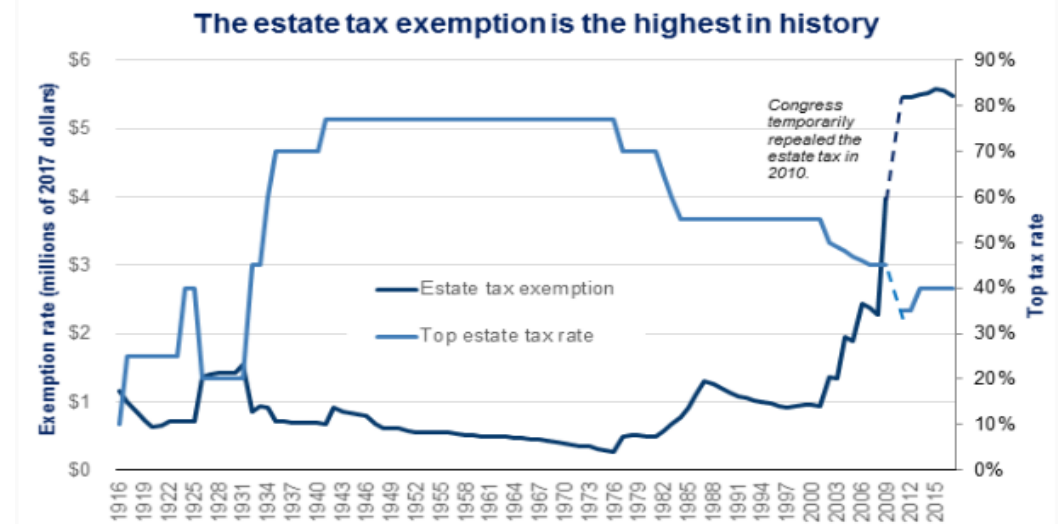
# Anti-Tax Policy Widens the Racial Wealth Gap



# Wealth Concentration Correlates with Tax Policy



This figure depicts the share of total household wealth held by the 0.1% richest families, as estimated by capitalizing income tax returns. In 2012, the top 0.1% includes about 160,000 families with net wealth above \$20.6 million. Source: Appendix Table B1.



Note: Exemption levels were adjusted for inflation using the CPI for all urban consumers, September-August annual averages. The effective exemption rate has been adjusted for inflation since 2011, when it was \$5 million. Sources: Jacobson, Darien B., Brian G. Raub, and Barry W. Johnson, "The Estate Tax: Ninety Years and Counting," Internal Revenue Service (2007), <https://www.irs.gov/pub/irs-soi/ninetyestate.pdf>; USDA Economic Research Service, "Federal estate taxes," <https://www.ers.usda.gov/topics/farm-economy/federal-tax-issues/federal-estate-taxes.aspx>

# Historical Estate Tax Exemption Amounts

<b>Year</b>	<b>Estate Tax Exemption</b>	<b>Top Estate Tax Rate</b>
1997	\$600,000	55%
1998	\$625,000	55%
1999	\$650,000	55%
2000	\$675,000	55%
2001	\$675,000	55%
2002	\$1,000,000	50%
2003	\$1,000,000	49%
2004	\$1,500,000	48%
2005	\$1,500,000	47%
2006	\$2,000,000	46%
2007	\$2,000,000	45%
2008	\$2,000,000	45%
2009	\$3,500,000	45%
2010	\$5,000,000 or \$0	35% or 0%
2011	\$5,000,000	35%
2012	\$5,120,000	35%
2013	\$5,250,000	40%
2014	\$5,340,000	40%
2015	\$5,430,000	40%
2016	\$5,450,000	40%
2017	\$5,490,000	40%
2018	\$11,180,000	40%
2019	\$11,400,000	40%
2020	\$11,580,000	40%
2021	\$11,700,000	40%
2022	\$12,060,000	40%
2023	\$12,920,000	40%

The Tax Cut And Jobs Act expires in 2025

TABLE 1

## Number of Estate Tax Returns and Tax Liability 2001, 2007–2020



Calendar year	Number of Returns <sup>a</sup>	Number of Taxable Returns <sup>a</sup>	Estate tax liability (\$ billions) <sup>b</sup>
2001	109,600	50,500	\$23.7
2007	36,700	16,600	\$24.6
2008	29,000	15,100	\$18.9
2009	12,900	5,700	\$13.6
2010	*	*	*
2011	9,400	4,400	\$10.9
2012	9,600	4,100	\$12.0
2013	11,300	4,700	\$16.6
2014	11,000	5,400	\$18.3
2015	11,000	5,300	\$18.6
2016	11,200	5,300	\$19.3
2017	11,300	5,500	\$20.0
2018	4,000	1,900	\$14.9
2019	4,100	1,900	\$15.6
2020	4,100	1,900	\$16.0

**Sources:** For 2001, 2007, 2009, 2011, and 2013: Internal Revenue Service. Statistics of Income. "Estate Tax Year of Death Tables." For 2008, 2012, and 2014–2020, Urban-Brookings Tax Policy Center Microsimulation Model (versions 0217-1 and 0718-1).

**Note:** Figures are for estate tax returns filed for decedents dying in each calendar year.

\* The estate tax was repealed for 2010 decedents by the *Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA)*, but reinstated by the *Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010* with an option for executors to elect the EGTRRA rules; IRS SOI did not publish statistics for 2010 decedents.

(a) Number of returns is rounded to nearest multiple of one hundred.

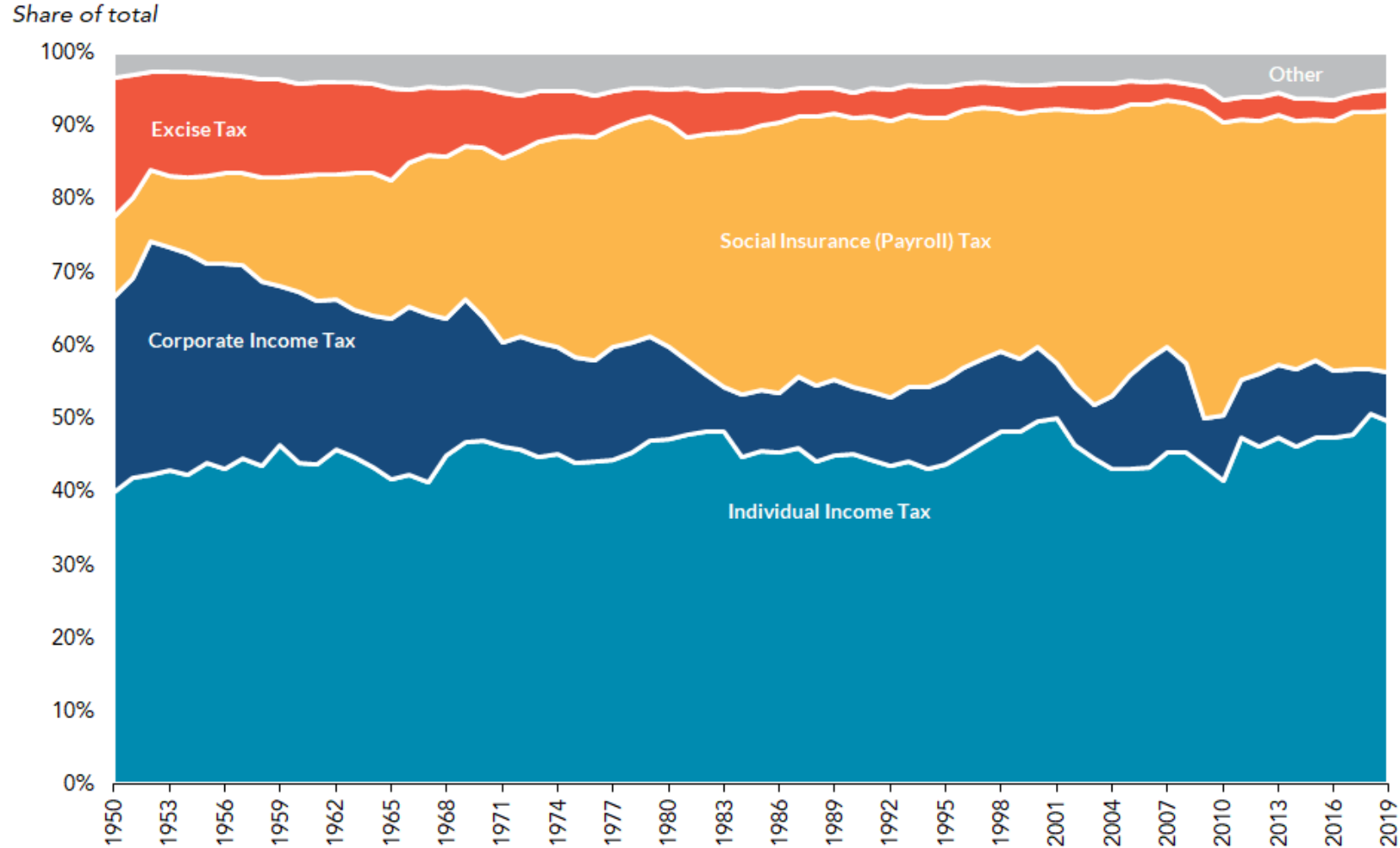
(b) Estate tax paid is rounded to nearest multiple of \$10 million.

"If we genuinely believe in a substantial equality of opportunity, then **we should cheerfully desire an Estate Tax that truly levels the playing field.**

**Within its limitations the estate tax has much to contribute toward the consummation of Jefferson's vision."**

*Louis Eisenstein, The Rise and Decline of the Estate Tax, 11 NYU TAX L. REV. 223 (1956).*

**FIGURE 4**  
Sources of Federal Revenue  
Fiscal years 1950–2019



Source: Office of Management and Budget. Historical Tables. Table 2.1, "Receipts by Source: 1934–2025."

In many ways, the current estate tax is a zombie, neither fully alive nor fully dead”.

Samuel D. Brunson, *Afterlife of the Death Tax*, 94 INDIANA LAW JOURNAL 1 (2019)

# Estate Tax on Swollen White Wealth To Replace Theft of Stolen Black Wealth



President Theodore Roosevelt

“The really big fortune, the swollen fortune, by the mere fact of its size acquires qualities which differentiate it in kind as well as in degree from what is possessed by men of relatively small means. . .

Therefore, I believe in a graduated inheritance tax on big fortunes, properly safeguarded against evasion, and increasing rapidly in amount with the size of the estate.”

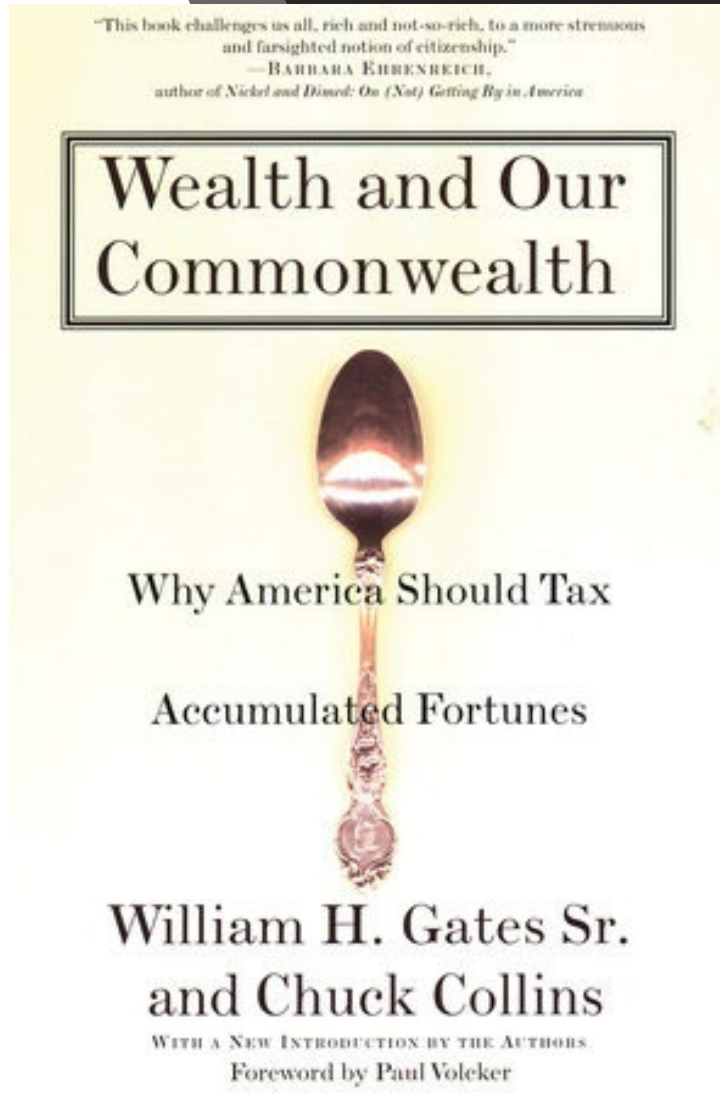
Those who oppose reform will do well to remember that ruin in its worst form is inevitable if our national life brings us nothing better than swollen fortunes for the few and the triumph in both politics and business of a sordid and selfish materialism.

*President Theodore Roosevelt on August 31, 1910 A Speech Delivered at the Dedication of the John Brown Memorial Park in Osawatomie, Kansas*





# “Poetic” Elimination of Wealth Disparity Thru Estate Tax



The essence of the American experiment is our collective rejection of European hereditary aristocracy and grotesque inequalities of wealth.

[B]oth Hamilton and Jefferson shared a rejection of the aristocratic economic system that allowed . . . an unjust accumulation of property and wealth

For many ordinary Americans, the estate tax is a remote issue in their lives. The vast majority will never pay it, nor do they perceive any particular benefit from it.

There is something poetic about allocating estate tax revenues to particular initiatives that strengthen equality of opportunity in America.

# Reviving Federal Estate Tax State Death Credit For Would Raise \$1.8 Billion For California



\$1.8  
Billion

Norton Francis, *Back from the Dead: State Estate Taxes After the Fiscal Cliff*, Urban Brookings Tax Policy Center (Nov. 14, 2012) Appendix B fn. 4.

# Tax Policy Calls for a Clear Connection Between the Source of Revenue and the Harm Being Addressed

## Potential Revenue Sources:

- State Estate Tax
- Mansion Tax
- Graduated Property Tax (although not likely in California)
- Metaverse Property Tax?



**REPARATIONS**  
Is A Positive Solution  
TO ECONOMIC DISPARITY  
**WE ALL WIN**



# Using New Charitable Incentives to Help America Repay its Debt



## Georgetown University

- Descendants Truth & Reconciliation Foundation
- \$1 Billion fundraising goal

## Episcopal Church Reparations

- \$13M fund – Texas Diocese
- \$1.1M fund – New York Diocese
- \$1M fund – Maryland Diocese

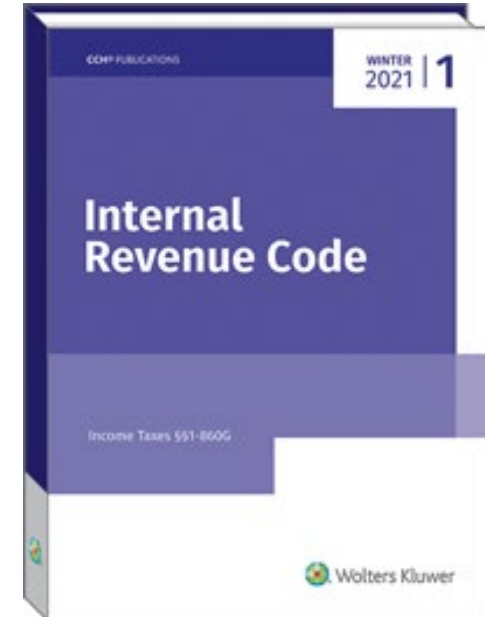
# Solution: 501 (c) (40) Reparations Organizations

IRC Section 501(c) currently ends at subsection (29)

Reserve next ten sections and create 501(c)(40) “Reparations Organization”

“Reparations Organizations” could be Black-led charities having a purpose of repairing the racial wealth gap through direct payments and/or community building

Application process to become a 501(c)(40) could be more of a notice than a request for permission, to avoid discrimination from IRS. Model after application for 501(c)(4) social welfare organization



# Incentives for Contributions to 501(c)(40)s



- Allow “above the line” deduction of up to 100% of AGI for income tax purposes for **lifetime gifts** of cash or appreciated assets
- Allow **testamentary bequests** to 501(c)(40)s to have favored estate tax treatment – by allowing an estate tax **credit**.
- For every dollar paid to a 501(c)(40), you get an extra estate tax free dollar for family
- Generous incentives justified in recognizing that taxpayer is doing more than being charitable, they are repaying a **debt of the United States federal government**.

# 529 College Savings Plans as Framework for “501 (c) (40) Accounts”

## Problem:

If government and Reparations Organizations are both contributing to reparations, how to keep track of who has received what, and from whom?

## Possible Solution:

Government and Reparations Organizations contribute direct payments to 501(c)(40) accounts for eligible Black Americans

- Contributions into the accounts and distributions could be reported to IRS, similar to the HSA or 529 account framework
- Maximum contribution limit from all donors (in aggregate) tied to HR 40 commission’s target \$ amount for reparations direct payments, just as 529 plans have cap on total aggregate contributions
- Funds could be used during life and/or passed to subsequent generations, allowing Black Americans to leave an inheritance to their descendants



Questions?