

115TH CONGRESS
1ST SESSION

S. 1564

To amend the Internal Revenue Code of 1986 to permit legally married same-sex couples to amend their filing status for returns outside the 3-year limitation.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2017

Ms. WARREN (for herself, Mr. SCHUMER, Mr. MARKEY, Mr. COONS, Mr. WHITEHOUSE, Ms. HASSAN, Ms. BALDWIN, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. HEINRICH, Mrs. FEINSTEIN, Mr. WYDEN, Mr. BOOKER, Mr. VAN HOLLEN, Mr. BLUMENTHAL, Mr. CARPER, Mr. KAINE, Mr. FRANKEN, Ms. HIRONO, Mr. LEAHY, Mr. MURPHY, Mrs. SHAHEEN, Mr. DURBIN, Mr. WARNER, Mr. UDALL, Mr. CARDIN, Mr. REED, Mr. SANDERS, Mrs. MURRAY, Ms. DUCKWORTH, Ms. CANTWELL, Ms. HARRIS, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to permit legally married same-sex couples to amend their filing status for returns outside the 3-year limitation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Refund Equality Act
5 of 2017”.

1 **SEC. 2. EXTENSION OF PERIOD OF LIMITATION FOR CER-**
2 **TAIN LEGALLY MARRIED COUPLES.**

3 (a) IN GENERAL.—Subsection (d) of section 6511 of
4 the Internal Revenue Code of 1986 is amended by adding
5 at the end the following new paragraph:

6 “(9) RULES RELATING TO CERTAIN LEGALLY
7 MARRIED COUPLES.—

8 “(A) IN GENERAL.—In the case of
9 spouses—

10 “(i) who were married under state law
11 (as such term is used in Revenue Ruling
12 2013–17) before September 16, 2013, and

13 “(ii) who were first treated as married
14 for purposes of this title by the application
15 of the holdings of Revenue Ruling 2013–
16 17,

17 with respect to the taxable year in which the
18 marriage was entered into and any subsequent
19 taxable year that, but for this paragraph, would
20 be outside the 3-year period of limitation pre-
21 scribed in subsection (a), such period shall be
22 extended until the date prescribed by law (in-
23 cluding extensions) for filing the return of tax
24 for the taxable year that includes the date of
25 the enactment of this paragraph. The preceding
26 sentence shall apply only with respect to

1 amendments to the return of tax, and claims
2 for credit or refund, relating to a change in the
3 marital status of such spouses.

4 “(B) WAIVER OF LIMIT ON AMOUNT OF
5 CLAIM.—In the case of a claim for credit or re-
6 fund which is allowed by reason of subpara-
7 graph (A), the amount of the refund may ex-
8 ceed the portion of the tax paid within the pe-
9 riod provided in subsection (b)(2) to the extent
10 of the amount of the overpayment attributable
11 to the change in the marital status of the
12 spouses.”.

13 (b) FILING OF JOINT RETURN FOR PRIOR TAXABLE
14 YEAR.—Section 6013 of the Internal Revenue Code of
15 1986 is amended by adding at the end the following new
16 subsection:

17 “(i) JOINT RETURN AFTER FILING SEPARATE RE-
18 TURNS FOR CERTAIN LEGALLY MARRIED COUPLES.—

19 “(1) IN GENERAL.—If—

20 “(A) an individual has filed a separate re-
21 turn for a taxable year for which a joint return
22 could have been made by the individual and the
23 individual’s spouse, but for the fact that the
24 spouses were first treated as married for pur-
25 poses of this title by the application of the hold-

1 ings of Revenue Ruling 2013–17 after the filing
2 of the return of tax for such taxable year, and

3 “(B) the time prescribed by law for filing
4 the return for such taxable year has expired,
5 such individual and the individual’s spouse may nev-
6 ertheless make a joint return for such taxable year.

7 “(2) RULES AND LIMITATIONS.—

8 “(A) IN GENERAL.—The election provided
9 for under paragraph (1) may not be made after
10 the later of—

11 “(i) the expiration of 3 years from the
12 last date prescribed by law for filing the
13 return for such taxable year (determined
14 without regard to any extension of time
15 granted to either spouse), or

16 “(ii) the date prescribed by law (in-
17 cluding extensions) for filing the return of
18 tax for the taxable year that includes the
19 date of the enactment of this subsection.

20 “(B) OTHER RULES.—The rules of—

21 “(i) so much of subsection (b)(1) as
22 follows the first sentence,

23 “(ii) subparagraphs (B), (C), and (D)
24 of subsection (b)(2), and

1 “(iii) paragraphs (3), (4), and (5) of
2 subsection (b),
3 shall apply to a joint return under this sub-
4 section as if it were a joint return under sub-
5 section (b).”.

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