

115TH CONGRESS
1ST SESSION

H. R. 3234

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 HOUSE OF REPRESENTATIVES

JULY 13, 2017

Mr. NEAL (for himself, Mr. CAPUANO, Mr. CARBAJAL, Ms. JUDY CHU of California, Ms. CLARK of Massachusetts, Ms. CLARKE of New York, Mr. COHEN, Mr. CONNOLLY, Ms. ESHOO, Ms. ESTY of Connecticut, Mr. GALLEG0, Mr. GARAMENDI, Ms. JAYAPAL, Mr. KEATING, Mr. KENNEDY, Mr. KHANNA, Mr. KIHUEN, Mr. LARSON of Connecticut, Mr. LEVIN, Mr. LOWENTHAL, Mr. LYNCH, Mr. MCGOVERN, Mr. MOULTON, Mrs. NAPOLITANO, Mr. NADLER, Ms. NORTON, Mr. PALLONE, Mr. PETERS, Ms. ROYBAL-ALLARD, Mr. RYAN of Ohio, Ms. SÁNCHEZ, Ms. SHEA-PORTER, Mr. SHERMAN, Mr. SWALWELL of California, Mr. TAKANO, Mr. THOMPSON of California, Ms. TSONGAS, Mr. VARGAS, Ms. MAXINE WATERS of California, and Mrs. WATSON COLEMAN) introduced the following bill; which was referred to the Committee on Ways and Means

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Refund Equality Act
3 of 2017”.

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

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

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

11 “(A) IN GENERAL.—In the case of
12 spouses—

13 “(i) who were married under state law
14 (as such term is used in Revenue Ruling
15 2013–17) before September 16, 2013, and

16 “(ii) who were first treated as married
17 for purposes of this title by the application
18 of the holdings of Revenue Ruling 2013–
19 17,

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

1 for the taxable year that includes the date of
 2 the enactment of this paragraph. The preceding
 3 sentence shall apply only with respect to
 4 amendments to the return of tax, and claims
 5 for credit or refund, relating to a change in the
 6 marital status of such spouses.

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

16 (b) FILING OF JOINT RETURN FOR PRIOR TAXABLE
 17 YEAR.—Section 6013 of the Internal Revenue Code of
 18 1986 is amended by adding at the end the following new
 19 subsection:

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

22 “(1) IN GENERAL.—If—

23 “(A) an individual has filed a separate re-
 24 turn for a taxable year for which a joint return
 25 could have been made by the individual and the

1 individual's spouse, but for the fact that the
2 spouses were first treated as married for pur-
3 poses of this title by the application of the hold-
4 ings of Revenue Ruling 2013–17 after the filing
5 of the return of tax for such taxable year, and

6 “(B) the time prescribed by law for filing
7 the return for such taxable year has expired,
8 such individual and the individual's spouse may nev-
9 ertheless make a joint return for such taxable year.

10 “(2) RULES AND LIMITATIONS.—

11 “(A) IN GENERAL.—The election provided
12 for under paragraph (1) may not be made after
13 the later of—

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

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

23 “(B) OTHER RULES.—The rules of—

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

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

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