

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.

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## 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. GALLEGRO, 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

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## 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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