

118TH CONGRESS
1ST SESSION

S. 2221

To amend the Internal Revenue Code of 1986 to clarify that all provisions shall apply to legally married same-sex couples in the same manner as other married couples, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 10, 2023

Mr. WYDEN (for himself, Ms. COLLINS, Mr. CARPER, Mr. KING, Ms. HIRONO, Mr. DURBIN, Mr. COONS, Mrs. MURRAY, Ms. CANTWELL, Ms. KLOBUCHAR, Mr. CASEY, Ms. WARREN, Mr. WHITEHOUSE, Mr. SCHATZ, Mr. KAINE, Mr. BOOKER, Ms. CORTEZ MASTO, Mr. VAN HOLLEN, Mr. MARKEY, Mr. BROWN, Mr. SANDERS, Ms. BALDWIN, Mr. SCHUMER, Mr. BENNET, Mr. BLUMENTHAL, Mr. REED, Mr. FETTERMAN, Mr. CARDIN, Mr. MENENDEZ, Mr. WELCH, Mr. KELLY, Mr. MERKLEY, Mr. HEINRICH, Mr. MURPHY, Mrs. GILLIBRAND, Ms. DUCKWORTH, Ms. STABENOW, Mrs. SHAHEEN, Ms. SMITH, Ms. ROSEN, Mr. WARNER, Mr. HICKENLOOPER, Mr. PETERS, Mr. PADILLA, and Mrs. FEINSTEIN) 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 clarify that all provisions shall apply to legally married same-sex couples in the same manner as other married couples, and for other purposes.

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 “Equal Dignity for Mar-
3 ried Taxpayers Act of 2023”.

4 **SEC. 2. RULES RELATING TO ALL LEGALLY MARRIED COU-
5 PLES.**

6 (a) IN GENERAL.—The Internal Revenue Code of
7 1986 is amended—

8 (1) in section 21(d)(2)—

9 (A) by striking “HIMSELF” in the heading
10 and inserting “SELF”; and

11 (B) by striking “any husband and wife”
12 and inserting “any married couple”;

13 (2) in section 22(e)(1)—

14 (A) by striking “husband and wife who
15 live” and inserting “married couple who lives”;
16 and

17 (B) by striking “the taxpayer and his
18 spouse” and inserting “the taxpayer and the
19 spouse of the taxpayer”;

20 (3) in section 38(c)(6)(A), by striking “husband
21 or wife who files” and inserting “married individual
22 who files”;

23 (4) in section 42(j)(5)(C), by striking clause (i)
24 and inserting the following new clause:

25 “(i) MARRIED COUPLE TREATED AS 1
26 PARTNER.—For purposes of subparagraph

1 (B), individuals married to one another
2 (and their estates) shall be treated as 1
3 partner.”;

4 (5) in section 62(b)(3)—

5 (A) in subparagraph (A)—

6 (i) by striking “husband and wife who
7 lived apart” and inserting “married couple
8 who lived apart”; and

9 (ii) by striking “the taxpayer and his
10 spouse” and inserting “the taxpayer and
11 the spouse of the taxpayer”; and

12 (B) in subparagraph (D), by striking “hus-
13 band and wife” and inserting “married couple”;

14 (6) in section 121—

15 (A) in subsection (b)(2), by striking “hus-
16 band and wife who make” and inserting “mar-
17 ried couple who makes”; and

18 (B) in subsection (d)(1), by striking “hus-
19 band and wife make” and inserting “married
20 couple makes”;

21 (7) in section 165(h)(4)(B), by striking “hus-
22 band and wife” and inserting “married couple”;

23 (8) in section 179(b)(4), by striking “a husband
24 and wife filing” and inserting “individuals married
25 to one another who file”;

1 (9) in section 213(d)(8), by striking “(relating
2 to determination of status as husband and wife)”;

3 (10) in section 219(g)(4), by striking “A hus-
4 band and wife” and inserting “Married individuals”;

5 (11) in section 274(b)(2)(B), by striking “hus-
6 band and wife” and inserting “married couple”;

7 (12) in section 643(f), by striking “husband
8 and wife” in the second sentence and inserting
9 “married couple”;

10 (13) in section 761(f)—

11 (A) in paragraph (1), by striking “husband
12 and wife” and inserting “married couple”; and

13 (B) in paragraph (2)(A), by striking “hus-
14 band and wife” and inserting “married couple”;

15 (14) in section 911—

16 (A) in subsection (b)(2), by striking sub-
17 paragraph (C) and inserting the following new
18 subparagraph:

19 “(C) TREATMENT OF COMMUNITY IN-
20 COME.—In applying subparagraph (A) with re-
21 spect to amounts received from services per-
22 formed by a married individual which are com-
23 munity income under community property laws
24 applicable to such income, the aggregate
25 amount which may be excludable from the gross

1 income of such individual and such individual's
2 spouse under subsection (a)(1) for any taxable
3 year shall equal the amount which would be so
4 excludable if such amounts did not constitute
5 community income.”; and

6 (B) in subsection (d)(9)(A), by striking
7 “where a husband and wife each have” and in-
8 serting “where both spouses have”;

9 (15) in section 1244(b)(2), by striking “a hus-
10 band and wife filing a joint return for such year
11 under section 6013” and inserting “a joint return”;

12 (16) in section 1272(a)(2)(D), by striking
13 clause (iii) and inserting after clause (ii) the fol-
14 lowing new clause:

15 “(iii) TREATMENT OF A MARRIED
16 COUPLE.—For purposes of this subpara-
17 graph, a married couple shall be treated as
18 1 person. The preceding sentence shall not
19 apply where the spouses lived apart at all
20 times during the taxable year in which the
21 loan is made.”;

22 (17) in section 1313(c)(1), by striking “hus-
23 band and wife” and inserting “spouses”;

1 (18) in section 1361(c)(1)(A)(i), by striking “a
2 husband and wife” and inserting “a married cou-
3 ple”;

4 (19) in section 2040(b), by striking “CERTAIN
5 JOINT INTERESTS OF HUSBAND AND WIFE” in the
6 heading and inserting “CERTAIN JOINT INTERESTS
7 OF MARRIED COUPLE”;

8 (20) in section 2513—

9 (A) by striking “**GIFT BY HUSBAND OR**
10 **WIFE TO THIRD PARTY**” in the heading and
11 inserting “**GIFT BY ONE SPOUSE TO THIRD**
12 **PARTY**”; and

13 (B) by striking paragraph (1) of sub-
14 section (a) and inserting before paragraph (2)
15 the following new paragraph:

16 “(1) IN GENERAL.—A gift made by one indi-
17 vidual to any person other than such individual’s
18 spouse shall, for the purposes of this chapter, be
19 considered as made one-half by the individual and
20 one-half by such individual’s spouse, but only if at
21 the time of the gift each spouse is a citizen or resi-
22 dent of the United States. This paragraph shall not
23 apply with respect to a gift by an individual of an
24 interest in property if such individual creates in the
25 individual’s spouse a general power of appointment,

1 as defined in section 2514(c), over such interest. For
2 purposes of this section, an individual shall be con-
3 sidered as the spouse of another only if the indi-
4 vidual is married to the individual's spouse at the
5 time of the gift and does not remarry during the re-
6 mainder of the calendar year.”;

7 (21) in section 2516—

8 (A) by striking “his or her” in paragraph
9 (1);

10 (B) by striking “Where a husband and
11 wife enter” and inserting the following:

12 “(a) IN GENERAL.—Where a married couple enters”;

13 and

14 (C) by adding at the end the following new
15 subsection:

16 “(b) SPOUSE.—For purposes of this section, if the
17 spouses referred to are divorced, wherever appropriate to
18 the meaning of this section, the term ‘spouse’ shall read
19 ‘former spouse.’”;

20 (22) in section 5733(d), by striking paragraph
21 (2) and inserting after paragraph (1) the following
22 new paragraph:

23 “(2) a spouse succeeding to the business of a
24 living spouse;”;

25 (23) in section 6013—

1 (A) by striking “**JOINT RETURNS OF IN-**
2 **COME TAX BY HUSBAND AND WIFE**” in the
3 heading and inserting “**JOINT RETURNS OF**
4 **INCOME TAX BY A MARRIED COUPLE**”;

5 (B) in subsection (a), in the matter pre-
6 ceding paragraph (1), by striking “husband and
7 wife” and inserting “married couple”;

8 (C) in subsection (a)(1), by striking “ei-
9 ther the husband or wife” and inserting “either
10 spouse”;

11 (D) in subsection (a)(2)—

12 (i) in the first sentence, by striking
13 “husband and wife” and inserting
14 “spouses”; and

15 (ii) in the second sentence, by striking
16 “his taxable year” and inserting “such
17 spouse’s taxable year”;

18 (E) in subsection (a)(3)—

19 (i) in the first sentence, by striking
20 “his executor or administrator” and insert-
21 ing “the decedent’s executor or adminis-
22 trator”;

23 (ii) in the first sentence, by striking
24 “with respect to both himself and the dece-
25 dent” and inserting “with respect to both

1 the surviving spouse and the decedent”;
2 and

3 (iii) in the second sentence, by strik-
4 ing “constitute his separate return” and
5 inserting “constitute the survivor’s sepa-
6 rate return”;

7 (F) in subsection (b), by striking para-
8 graph (1) and inserting the following new para-
9 graph:

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (2), if an individual has filed a separate re-
12 turn for a taxable year for which a joint return
13 could have been made by the individual and the indi-
14 vidual’s spouse under subsection (a) and the time
15 prescribed by law for filing the return for such tax-
16 able year has expired, such individual and such
17 spouse may nevertheless make a joint return for
18 such taxable year. A joint return filed under this
19 subsection shall constitute the return of the indi-
20 vidual and the individual’s spouse for such taxable
21 year, and all payments, credits, refunds, or other re-
22 payments made or allowed with respect to the sepa-
23 rate return of either spouse for such taxable year
24 shall be taken into account in determining the extent
25 to which the tax based upon the joint return has

1 been paid. If a joint return is made under this sub-
2 section, any election (other than the election to file
3 a separate return) made by either spouse in a sepa-
4 rate return for such taxable year with respect to the
5 treatment of any income, deduction, or credit of
6 such spouse shall not be changed in the making of
7 the joint return where such election would have been
8 irrevocable if the joint return had not been made. If
9 a joint return is made under this subsection after
10 the death of either spouse, such return with respect
11 to the decedent can be made only by the decedent's
12 executor or administrator.”;

13 (G) in subsection (c), by striking “husband
14 and wife” and inserting “spouses”;

15 (H) in subsection (d)(1), by striking “as
16 husband and wife” and inserting “as married”;

17 (I) in subsection (d)(2), by striking “his
18 spouse” and inserting “the spouse of the indi-
19 vidual”;

20 (J) in subsection (f)(2)(B), by striking
21 “such individual, his spouse, and his estate
22 shall be determined as if he were alive” and in-
23 serting “such individual, the individual's
24 spouse, and the individual's estate shall be de-
25 termined as if the individual were alive”; and

1 (K) in subsection (f)(3)—

2 (i) in subparagraph (A), by striking

3 “for which he is entitled” and inserting

4 “for which such member is entitled”; and

5 (ii) in subparagraph (B), by striking

6 “for which he is entitled” and inserting

7 “for which such employee is entitled”;

8 (24) in section 6014(b), by striking “husband

9 and wife” in the second sentence and inserting “a

10 married couple”;

11 (25) in section 6017, by striking “husband and

12 wife” and inserting “married couple”;

13 (26) in section 6096(a), by striking “of hus-

14 band and wife having” and inserting “reporting”;

15 (27) in section 6166(b)(2), by striking subpara-

16 graph (B) and inserting the following new subpara-

17 graph:

18 “(B) CERTAIN INTERESTS HELD BY MAR-

19 RIED COUPLE.—Stock or a partnership interest

20 which—

21 “(i) is community property of a mar-

22 ried couple (or the income from which is

23 community income) under the applicable

24 community property law of a State, or

1 “(ii) is held by a married couple as
2 joint tenants, tenants by the entirety, or
3 tenants in common,
4 shall be treated as owned by 1 shareholder or
5 1 partner, as the case may be.”;

6 (28) in section 6212(b)(2)—

7 (A) by striking “return filed by husband
8 and wife” and inserting “return”; and

9 (B) by striking “his last known address”
10 and inserting “the last known address of such
11 spouse”;

12 (29) in section 7428(c)(2)(A), by striking “hus-
13 band and wife” and inserting “married couple”;

14 (30) in section 7701(a)—

15 (A) by striking paragraph (17); and

16 (B) in paragraph (38), by striking “hus-
17 band and wife” and inserting “married couple”;
18 and

19 (31) in section 7872(f), by striking paragraph
20 (7) and inserting the following new paragraph:

21 “(7) MARRIED COUPLE TREATED AS 1 PER-
22 SON.—A married couple shall be treated as 1 per-
23 son.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) The table of sections for subchapter B of
 2 chapter 12 of the Internal Revenue Code of 1986 is
 3 amended by striking the item relating to section
 4 2513 and inserting the following new item:

“Sec. 2513. Gift by one spouse to third party.”.

5 (2) The table of sections for subpart B of part
 6 II of subchapter A of chapter 61 of such Code is
 7 amended by striking the item relating to section
 8 6013 and inserting the following new item:

“Sec. 6013. Joint returns of income tax by a married couple.”.

9 **SEC. 3. RULES RELATING TO THE GENDER OF SPOUSES,**
 10 **ETC.**

11 (a) IN GENERAL.—The following provisions of the In-
 12 ternal Revenue Code of 1986 are each amended by strik-
 13 ing “his spouse” each place it appears and inserting “the
 14 individual’s spouse”:

15 (1) Subsections (a)(1) and (d) of section 1.

16 (2) Section 2(b)(2)(A).

17 (3) Subsections (d)(1)(B) and (e)(3) of section
 18 21.

19 (4) Section 36(c)(5).

20 (5) Section 71(b)(1)(C).

21 (6) Section 179(d)(2)(A).

22 (7) Section 318(a)(1)(A)(i).

23 (8) Section 408(d)(6).

24 (9) Section 469(i)(5)(B)(ii).

1 (10) Section 507(d)(2)(B)(iii).

2 (11) Clauses (ii) and (iii) of section
3 613A(e)(8)(D).

4 (12) Section 672(e)(2).

5 (13) Section 704(e)(2).

6 (14) Subparagraphs (A) and (B)(ii) of section
7 911(c)(3).

8 (15) Section 1235(c)(2).

9 (16) Section 1563(e)(5).

10 (17) Section 3121(b)(3)(B).

11 (18) Section 4946(d).

12 (19) Section 4975(e)(6).

13 (20) Subparagraphs (A)(iv) and (B) of section
14 6012(a)(1).

15 (21) Section 7703(a).

16 (b) CONFORMING AMENDMENTS.—

17 (1) The following provisions of the Internal
18 Revenue Code of 1986 are each amended by striking
19 “his spouse” each place it appears and inserting
20 “the taxpayer’s spouse”:

21 (A) Section 2(a)(2)(B).

22 (B) Subparagraphs (B) and (C) of section
23 2(b)(2).

24 (C) Paragraphs (2) and (6)(A) of section
25 21(e).

- 1 (D) Section 36B(e)(1).
- 2 (E) Section 63(e)(3)(B).
- 3 (F) Section 86(c)(1)(C)(ii).
- 4 (G) Section 105(e)(1).
- 5 (H) Section 135(d)(3).
- 6 (I) Section 151(b).
- 7 (J) Subsections (a) and (d)(7) of section
- 8 213.
- 9 (K) Section 1233(e)(2)(C).
- 10 (L) Section 1239(b)(2).
- 11 (M) Section 6504(2).
- 12 (2) The following provisions of the Internal
- 13 Revenue Code of 1986 are each amended by striking
- 14 “his spouse” each place it appears and inserting
- 15 “the employee’s spouse”:
- 16 (A) Section 132(m)(1).
- 17 (B) Section 401(h)(6).
- 18 (C) Section 3402(l)(3).
- 19 (3) The following provisions of the Internal
- 20 Revenue Code of 1986 are each amended by striking
- 21 “his taxable year” each place it appears and insert-
- 22 ing “the individual’s taxable year”:
- 23 (A) Section 2(b)(1).
- 24 (B) Section 7703(a)(1).

1 (4) The following provisions of the Internal
2 Revenue Code of 1986 are each amended by striking
3 “his taxable year” each place it appears and insert-
4 ing “the taxpayer’s taxable year”:

5 (A) Subparagraphs (B) and (C) of section
6 2(b)(2) (as amended by paragraph (1)(B)).

7 (B) Section 63(f)(1)(A).

8 (5) The following provisions of the Internal
9 Revenue Code of 1986 are each amended by striking
10 “his home” and inserting “the individual’s home”:

11 (A) Section 2(b)(1)(A).

12 (B) Section 21(e)(4)(A)(i).

13 (C) Section 7703(b)(1).

14 (6) The Internal Revenue Code of 1986, as
15 amended by this section, is amended—

16 (A) in section 2(a)(1)(A), by striking “his
17 two taxable years” and inserting “the tax-
18 payer’s two taxable years”;

19 (B) in section 2(a)(1)(B), by striking “his
20 home” and inserting “the taxpayer’s home”;

21 (C) in paragraphs (1)(A) and (2)(A) of
22 section 63(f), by striking “for himself if he”
23 both places it appears and inserting “for the
24 taxpayer if the taxpayer”;

1 (D) in section 63(f)(4), by striking “his”
2 both places it appears and inserting “the indi-
3 vidual’s”;

4 (E) in section 105(b)—

5 (i) by striking “his spouse, his de-
6 pendants” and inserting “the taxpayer’s
7 spouse, the taxpayer’s dependents”; and

8 (ii) by striking “by him”;

9 (F) in the heading of section 119(a), by
10 striking “, HIS SPOUSE, AND HIS DEPEND-
11 ENTS” and inserting “AND THE EMPLOYEE’S
12 SPOUSE AND DEPENDENTS”;

13 (G) in section 119(a), by striking “him, his
14 spouse, or any of his dependents by or on be-
15 half of his employer” and inserting “the em-
16 ployee or the employee’s spouse or dependents
17 by or on behalf of the employer of the em-
18 ployee”;

19 (H) in section 119(a)(2), by striking “his”
20 both places it appears and inserting “the em-
21 ployee’s”;

22 (I) in section 119(d)(3)(B), by striking
23 “his spouse, and any of his dependents” and in-
24 serting “the employee’s spouse, and any of the
25 employee’s dependents”;

1 (J) in section 129(b)(2), by striking “him-
2 self” and inserting “the spouse’s self”;

3 (K) in section 170(b)(1)(F)(iii)—

4 (i) by striking “his spouse” and in-
5 serting “the spouse of such donor”; and

6 (ii) by striking “his death or after the
7 death of his surviving spouse if she” and
8 inserting “the death of the donor or after
9 the death of the donor’s surviving spouse if
10 such surviving spouse”;

11 (L) in section 213(e)(1)—

12 (i) by striking “his estate” and insert-
13 ing “the estate of the taxpayer”; and

14 (ii) by striking “his death” and insert-
15 ing “the death of the taxpayer”;

16 (M) in section 213(d)(7), by striking “he”
17 and inserting “the taxpayer”;

18 (N) in section 217(g)—

19 (i) by striking “, his spouse, or his de-
20 pendants” in paragraph (2) and inserting
21 “or the spouse or dependents of such mem-
22 ber”;

23 (ii) by striking “his dependents” in
24 paragraph (3) and inserting “dependents”;
25 and

1 (iii) by striking “his spouse” each
2 place it appears in paragraph (3) and in-
3 serting “the member’s spouse”;

4 (O) in section 217(i)(3)(A), by striking
5 “his”;

6 (P) in section 267(c), by striking “his”
7 each place it appears and inserting “the individ-
8 ual’s”;

9 (Q) in section 318(a)(1)(A)(ii), by striking
10 “his” and inserting “the individual’s”;

11 (R) in section 402(l)(4)(D), by striking “,
12 his spouse, and dependents” and inserting “and
13 the spouse and dependents of such officer”;

14 (S) in section 415(l)(2)(B), by striking “,
15 his spouse, or his dependents” and inserting
16 “or the participant’s spouse or dependents”;

17 (T) in section 420(f)(6)(A), by striking
18 “his covered spouse and dependents” each place
19 it appears and inserting “the covered spouse
20 and dependents of such retiree”;

21 (U) in section 424(d)(1), by striking “his”
22 and inserting “the individual’s”;

23 (V) in section 544(a)(2), by striking “his”
24 each place it appears and inserting “the individ-
25 ual’s”;

1 (W) in section 911(c)(3), by striking
2 “him” each place it appears in subparagraphs
3 (A) and (B)(ii) and inserting “the individual”;

4 (X) in section 1015(d)(3), by striking “his
5 spouse” and inserting “the donor’s spouse”;

6 (Y) in section 1563(e)—

7 (i) by striking “his children” both
8 places it appears in paragraphs (5)(D) and
9 (6)(A) and inserting “the individual’s chil-
10 dren”; and

11 (ii) by striking “his parents” both
12 places it appears in subparagraphs (A) and
13 (B) of paragraph (6) and inserting “the
14 individual’s parents”;

15 (Z) in section 1563(f)(2)(B), by striking
16 “him” and inserting “the individual”;

17 (AA) in section 2012(e), by striking “his
18 spouse” and inserting “the decedent’s spouse”;

19 (BB) in section 2032A(e)(10), by striking
20 “his surviving spouse” and inserting “the dece-
21 dent’s surviving spouse”;

22 (CC) in section 2035(b)—

23 (i) by striking “his estate” and insert-
24 ing “the decedent’s estate”; and

1 (ii) by striking “his spouse” and in-
2 serting “the decedent’s spouse”;

3 (DD) in subsections (a) and (b)(5) of sec-
4 tion 2056, by striking “his”;

5 (EE) in section 2523(b)—

6 (i) by striking “(or his heirs or as-
7 signs) or such person (or his heirs or as-
8 signs)” in paragraph (1) and inserting
9 “(or the donor’s heirs or assigns) or such
10 person (or such person’s heirs or assigns)”;

11 (ii) by striking “himself” in para-
12 graph (1) and inserting “the donor’s self”;

13 (iii) by striking “he” in paragraph (2)
14 and inserting “the donor”; and

15 (iv) by striking “him” each place it
16 appears in the matter following paragraph
17 (2) and inserting “the donor”;

18 (FF) in section 2523(d), by striking “him-
19 self” and inserting “the donor’s self”;

20 (GG) in section 2523(e), by striking “his
21 spouse” and inserting “the donor’s spouse”;

22 (HH) in section 3121(b)(3)—

23 (i) by striking “his father” in sub-
24 paragraph (A) and inserting “the child’s
25 father”;

1 (ii) by striking “his father” in sub-
2 paragraph (B) and inserting “the individ-
3 ual’s father”; and

4 (iii) by striking “his son” in subpara-
5 graph (B) and inserting “the individual’s
6 son”;

7 (II) in section 3306(c)(5)—

8 (i) by striking “his son” and inserting
9 “the individual’s son”; and

10 (ii) by striking “his father” and in-
11 sserting “the child’s father”;

12 (JJ) in section 3402(l)—

13 (i) by striking “he” each place it ap-
14 pears in paragraphs (2) and (3)(A) and in-
15 sserting “the employee”; and

16 (ii) by striking “his taxable year”
17 both places it appears in paragraph (3)(B)
18 and inserting “the employee’s taxable
19 year”;

20 (KK) in section 4905(a), by striking “his
21 spouse” and inserting “such person’s spouse”;

22 (LL) in section 6046(c), by striking “his”
23 both places it appears and inserting “the indi-
24 vidual’s”;

1 (MM) in section 6103(e)(1)(A)(ii), by
2 striking “him” and inserting “the individual”;

3 (NN) in section 7448(a)(8), by striking
4 “his death” and inserting “the individual’s
5 death”;

6 (OO) in subsections (d) and (n) of section
7 7448, by striking “his” each place it appears
8 and inserting “the individual’s”;

9 (PP) in section 7448(m)(1)(A)(i), by strik-
10 ing “he” and inserting “such judge or special
11 trial judge”; and

12 (QQ) in section 7448(q)—

13 (i) by striking “his” both places it ap-
14 pears and inserting “such judge’s”; and

15 (ii) by striking “to bring himself” and
16 inserting “to come”.

○