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

Ms. WARREN introduced the following bill; which was read twice and referred to the Committee on ________

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”.

SEC. 2. EXTENSION OF PERIOD OF LIMITATION FOR CERTAIN LEGALLY MARRIED COUPLES.

(a) In General.—Subsection (d) of section 6511 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(9) Rules relating to certain legally married couples.—

“(A) In general.—In the case of spouses—

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

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

with respect to the taxable year in which the marriage was entered into and any subsequent taxable year that, but for this paragraph, would be outside the 3-year period of limitation prescribed in subsection (a), such period shall be extended until the date prescribed by law (including extensions) for filing the return of tax for the taxable year that includes the date of the enactment of this paragraph. The preceding sentence shall apply only with respect to
amendments to the return of tax, and claims
for credit or refund, relating to a change in the
marital status of such spouses.

“(B) Waiver of limit on amount of
claim.—In the case of a claim for credit or re-
fund which is allowed by reason of subpara-
graph (A), the amount of the refund may ex-
ceed the portion of the tax paid within the pe-
riod provided in subsection (b)(2) to the extent
of the amount of the overpayment attributable
to the change in the marital status of the
spouses.”.

(b) Filing of joint return for prior taxable
year.—Section 6013 of the Internal Revenue Code of
1986 is amended by adding at the end the following new
subsection:

“(i) Joint return after filing separate re-
turns for certain legally married couples.—

“(1) In general.—If—

“(A) an individual has filed a separate re-
turn for a taxable year for which a joint return
could have been made by the individual and the
individual’s spouse, but for the fact that the
spouses were first treated as married for pur-
poses of this title by the application of the hold-
ings of Revenue Ruling 2013-17 after the filing of the return of tax for such taxable year, and

“(B) the time prescribed by law for filing the return for such taxable year has expired,

such individual and the individual’s spouse may nevertheless make a joint return for such taxable year.

“(2) RULES AND LIMITATIONS.—

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

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

“(ii) the date prescribed by law (including extensions) for filing the return of tax for the taxable year that includes the date of the enactment of this subsection.

“(B) OTHER RULES.—The rules of—

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

“(ii) subparagraphs (B), (C), and (D) of subsection (b)(2), and
“(iii) paragraphs (3), (4), and (5) of subsection (b),

shall apply to a joint return under this subsection as if it were a joint return under subsection (b).”.