

## **The Refund Equality Act of 2023**

Senator Elizabeth Warren and Senator Susan Collins

Same-sex couples should have always been able to file their tax returns jointly, including to maximize their refunds. But for nearly a decade leading up to 2013, legally married same-sex couples were forced to file as individuals and pay more in taxes because of who they loved.

The Supreme Court's June 26, 2013 decision in *U.S. v. Windsor* barred the U.S. federal government from discriminating against married same-sex couples when determining federal benefits and protections, allowing them to file taxes jointly going forward.

However, the tax code in general allows taxpayers to file amended joint returns only dating back three years, preventing same-sex couples who were married before *Windsor* from accessing years of savings.

The *Refund Equality Act* would right this wrong by allowing legally married same-sex couples to amend their returns prior to 2013, helping them secure an estimated total of \$55 million in refunds which they always should have been able to claim.

This is a simple legislative fix and – on the ten-year anniversary of the landmark *Windsor* decision – it is well past due.

Specifically, the *Refund Equality Act* would:

- Allow same-sex couples who were married in jurisdictions that recognize same-sex marriage – including Massachusetts, Connecticut, California, Iowa, New Hampshire, Vermont, and Washington, D.C – to file for income tax adjustments prior to 2013, back to the date of their marriage.
- Create exemptions for two Internal Revenue Code limitations on amending returns: Section 6013(b), which limits to three years the period within which a married couple may make an election to file jointly after having filed separate returns, and Section 6511(a), which generally requires a claim for credit or refund of an overpayment of tax to be filed within three years from the time the return was filed.
- Follow other exemptions to the three-year period to amend returns, ranging from adjustments to capital loss carryback to adjustments for retired service members who receive an award of disability compensations.
- Return \$55 million in refunds to taxpayers whose marriages were systematically discriminated against, according to a 2021 estimate by the Joint Committee on Tax.