

116TH CONGRESS
1ST SESSION

S. _____

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

Mr. WYDEN (for himself, Mr. BENNET, Mr. WHITEHOUSE, Ms. CANTWELL, Mr. REED, Mr. LEAHY, Mr. MURPHY, Mr. VAN HOLLEN, Mrs. SHAHEEN, Mr. BLUMENTHAL, Mr. CASEY, Mr. CARPER, Ms. SMITH, Mr. KAINE, Mr. MARKEY, Mr. BOOKER, Mr. DURBIN, Ms. STABENOW, Mr. SANDERS, Mr. MENENDEZ, Mr. COONS, Mr. KING, Ms. BALDWIN, Ms. WARREN, Ms. KLOBUCHAR, Ms. CORTEZ MASTO, Ms. HIRONO, Ms. HASSAN, Mrs. FEINSTEIN, Mrs. MURRAY, Mr. SCHUMER, Mr. PETERS, Mr. JONES, Mr. BROWN, Mr. TESTER, Ms. HARRIS, Mr. HEINRICH, Mr. UDALL, Ms. DUCKWORTH, Mr. WARNER, Mr. CARDIN, Ms. ROSEN, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. SCHATZ, Ms. SINEMA, and Mr. MANCHIN) 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 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 2019”.

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

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

10 (15) in section 1244(b)(2), by striking “a hus-
11 band and wife filing”;

12 (16) in section 1272(a)(2)(D), by striking
13 clause (iii) and inserting the following new clause:

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

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

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

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

5 (20) in section 2513—

6 (A) by striking “**GIFT BY HUSBAND OR**
7 **WIFE TO THIRD PARTY**” in the heading and
8 inserting “**GIFT BY SPOUSE TO THIRD**
9 **PARTY**”; and

10 (B) by striking paragraph (1) of sub-
11 section (a) and inserting the following new
12 paragraph:

13 “(1) IN GENERAL.—A gift made by one indi-
14 vidual to any person other than such individual’s
15 spouse shall, for the purposes of this chapter, be
16 considered as made one-half by the individual and
17 one-half by such individual’s spouse, but only if at
18 the time of the gift each spouse is a citizen or resi-
19 dent of the United States. This paragraph shall not
20 apply with respect to a gift by an individual of an
21 interest in property if such individual creates in the
22 individual’s spouse a general power of appointment,
23 as defined in section 2514(c), over such interest. For
24 purposes of this section, an individual shall be con-
25 sidered as the spouse of another only if the indi-

1 vidual is married to the individual’s spouse at the
2 time of the gift and does not remarry during the re-
3 mainder of the calendar year.”;

4 (21) in section 2516—

5 (A) by striking “Where a husband and
6 wife enter” and inserting the following:

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

8 and

9 (B) by adding at the end the following new
10 subsection:

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

15 (22) in section 5733(d)(2), by striking “hus-
16 band or wife” and inserting “married individual”;

17 (23) in section 6013—

18 (A) by striking “**JOINT RETURNS OF IN-**
19 **COME TAX BY HUSBAND AND WIFE**” in the
20 heading and inserting “**JOINT RETURNS OF**
21 **INCOME TAX BY A MARRIED COUPLE**”;

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

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

4 (D) in subsection (a)(2)—

5 (i) in the first sentence, by striking
6 “husband and wife” and inserting
7 “spouses”; and

8 (ii) in the second sentence, by striking
9 “his taxable year” and inserting “such
10 spouse’s taxable year”;

11 (E) in subsection (a)(3)—

12 (i) in the first sentence, by striking
13 “his executor or administrator” and insert-
14 ing “the decedent’s executor or adminis-
15 trator”;

16 (ii) in the first sentence, by striking
17 “with respect to both himself and the dece-
18 dent” and inserting “with respect to both
19 the surviving spouse and the decedent”;
20 and

21 (iii) in the second sentence, by strik-
22 ing “constitute his separate return” and
23 inserting “constitute the survivor’s sepa-
24 rate return”;

1 (F) in subsection (b), by striking para-
2 graph (1) and inserting the following new para-
3 graph:

4 “(1) IN GENERAL.—Except as provided in para-
5 graph (2), if an individual has filed a separate re-
6 turn for a taxable year for which a joint return
7 could have been made by the individual and the indi-
8 vidual’s spouse under subsection (a) and the time
9 prescribed by law for filing the return for such tax-
10 able year has expired, such individual and such
11 spouse may nevertheless make a joint return for
12 such taxable year. A joint return filed under this
13 subsection shall constitute the return of the indi-
14 vidual and the individual’s spouse for such taxable
15 year, and all payments, credits, refunds, or other re-
16 payments made or allowed with respect to the sepa-
17 rate return of either spouse for such taxable year
18 shall be taken into account in determining the extent
19 to which the tax based upon the joint return has
20 been paid. If a joint return is made under this sub-
21 section, any election (other than the election to file
22 a separate return) made by either spouse in a sepa-
23 rate return for such taxable year with respect to the
24 treatment of any income, deduction, or credit of
25 such spouse shall not be changed in the making of

1 the joint return where such election would have been
2 irrevocable if the joint return had not been made. If
3 a joint return is made under this subsection after
4 the death of either spouse, such return with respect
5 to the decedent can be made only by the decedent's
6 executor or administrator.”;

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

9 (H) in subsection (d)(1), by striking “sta-
10 tus as husband and wife” and inserting “the
11 marital status with respect to each other”;

12 (I) in subsection (d)(2), by striking “his
13 spouse” and inserting “the spouse of the indi-
14 vidual”;

15 (J) in subsection (f)(2)(B), by striking
16 “such individual, his spouse, and his estate
17 shall be determined as if he were alive” and in-
18 serting “such individual, the individual's
19 spouse, and the individual's estate shall be de-
20 termined as if the individual were alive”; and

21 (K) in subsection (f)(3)—

22 (i) in subparagraph (A), by striking
23 “for which he is entitled” and inserting
24 “for which such member is entitled”; and

1 (ii) in subparagraph (B), by striking
2 “for which he is entitled” and inserting
3 “for which such employee is entitled”;

4 (24) in section 6014(b), by striking “husband
5 and wife” in the second sentence and inserting “a
6 married couple”;

7 (25) in section 6017, by striking “husband and
8 wife” and inserting “married couple”;

9 (26) in section 6096(a), by striking “of hus-
10 band and wife having” and inserting “reporting”;

11 (27) in section 6166(b)(2), by striking subpara-
12 graph (B) and inserting the following new subpara-
13 graph:

14 “(B) CERTAIN INTERESTS HELD BY MAR-
15 RIED COUPLE.—Stock or a partnership interest
16 which—

17 “(i) is community property of a mar-
18 ried couple (or the income from which is
19 community income) under the applicable
20 community property law of a State, or

21 “(ii) is held by a married couple as
22 joint tenants, tenants by the entirety, or
23 tenants in common,

24 shall be treated as owned by 1 shareholder or
25 1 partner, as the case may be.”;

1 (28) in section 6212(b)(2)—

2 (A) by striking “return filed by husband
3 and wife” and inserting “return”; and

4 (B) by striking “his last known address”
5 and inserting “the last known address of such
6 spouse”;

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

9 (30) in section 7701(a)—

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

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

13 and

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

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

19 (b) CONFORMING AMENDMENTS.—

20 (1) The table of sections for subchapter B of
21 chapter 12 of the Internal Revenue Code of 1986 is
22 amended by striking the item relating to section
23 2513 and inserting the following new item:

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

24 (2) The table of sections for subpart B of part
25 II of subchapter A of chapter 61 of such Code is

1 amended by striking the item relating to section
2 6013 and inserting the following new item:

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

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

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

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

10 (2) Section 2(b)(2)(A).

11 (3) Subsections (d)(1)(B) and (e)(3) of section
12 21.

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

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

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

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

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

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

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

20 (11) Clauses (ii) and (iii) of section
21 613A(c)(8)(D).

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

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

24 (14) Subparagraphs (A) and (B)(ii) of section
25 911(c)(3).

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

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

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

4 (18) Section 4946(d).

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

6 (20) Subparagraphs (A)(iv) and (B) of section
7 6012(a)(1).

8 (21) Section 7703(a).

9 (b) CONFORMING AMENDMENTS.—

10 (1) The following provisions of the Internal
11 Revenue Code of 1986 are each amended by striking
12 “his spouse” each place it appears and inserting
13 “the taxpayer’s spouse”:

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

15 (B) Subparagraphs (B) and (C) of section
16 2(b)(2).

17 (C) Paragraphs (2) and (6)(A) of section
18 21(e).

19 (D) Section 36B(e)(1).

20 (E) Section 63(e)(3)(B).

21 (F) Section 86(c)(1)(C)(ii).

22 (G) Section 105(e)(1).

23 (H) Section 135(d)(3).

24 (I) Section 151(b).

1 (J) Subsections (a) and (d)(7) of section
2 213.

3 (K) Section 1233(e)(2)(C).

4 (L) Section 1239(b)(2).

5 (M) Section 6504(2).

6 (2) The following provisions of the Internal
7 Revenue Code of 1986 are each amended by striking
8 “his spouse” each place it appears and inserting
9 “the employee’s spouse”:

10 (A) Section 132(m)(1).

11 (B) Section 401(h)(6).

12 (C) Section 3402(l)(3).

13 (3) The following provisions of the Internal
14 Revenue Code of 1986 are each amended by striking
15 “his taxable year” each place it appears and insert-
16 ing “the individual’s taxable year”:

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

18 (B) Section 7703(a)(1).

19 (4) 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 taxpayer’s taxable year”:

23 (A) Subparagraphs (B) and (C) of section
24 2(b)(2) (as amended by paragraph (1)(B)).

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

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

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

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

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

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

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

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

14 (C) in paragraphs (1)(A) and (2)(A) of
15 section 63(f), by striking “for himself if he”
16 both places it appears and inserting “for the
17 taxpayer if the taxpayer”;

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

21 (E) in section 105(b)—

22 (i) by striking “his spouse, his de-
23 pendents” and inserting “the taxpayer’s
24 spouse, the taxpayer’s dependents”; and

25 (ii) by striking “by him”;

1 (F) in the heading of section 119(a), by
2 striking “, HIS SPOUSE, AND HIS DEPEND-
3 ENTS” and inserting “AND THE EMPLOYEE’S
4 SPOUSE AND DEPENDENTS”;

5 (G) in section 119(a), by striking “him, his
6 spouse, or any of his dependents by or on be-
7 half of his employer” and inserting “the em-
8 ployee or the employee’s spouse or dependents
9 by or on behalf of the employer of the em-
10 ployee”;

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

14 (I) in section 119(d)(3)(B), by striking
15 “his spouse, and any of his dependents” and in-
16 serting “the employee’s spouse, and any of the
17 employee’s dependents”;

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

20 (K) in section 170(b)(1)(F)(iii)—

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

23 (ii) by striking “his death or after the
24 death of his surviving spouse if she” and
25 inserting “the death of the donor or after

1 the death of the donor’s surviving spouse if
2 such surviving spouse”;

3 (L) in section 213(c)(1)—

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

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

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

10 (N) in section 217(g)—

11 (i) by striking “, his spouse, or his de-
12 pendents” in paragraph (2) and inserting
13 “or the spouse or dependents of such mem-
14 ber”;

15 (ii) by striking “his dependents” in
16 paragraph (3) and inserting “dependents”;
17 and

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

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

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

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

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

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

9 (T) in section 420(f)(6)(A), by striking
10 “his covered spouse and dependents” each place
11 it appears and inserting “the covered spouse
12 and dependents of such retiree”;

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

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

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

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

23 (Y) in section 1563(e)—

24 (i) by striking “his children” both
25 places it appears in paragraphs (5)(D) and

1 (6)(A) and inserting “the individual’s chil-
2 dren”; and

3 (ii) by striking “his parents” both
4 places it appears in subparagraphs (A) and
5 (B) of paragraph (6) and inserting “the
6 individual’s parents”;

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

9 (AA) in section 2012(c), by striking “his
10 spouse” and inserting “the decedent’s spouse”;

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

14 (CC) in section 2035(b)—

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

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

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

21 (EE) in section 2523(b)—

22 (i) by striking “(or his heirs or as-
23 signs) or such person (or his heirs or as-
24 signs)” in paragraph (1) and inserting

1 “(or the donor’s heirs or assigns) or such
2 person (or such person’s heirs or assigns)”;

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

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

7 (iv) by striking “him” each place it
8 appears in the matter following paragraph
9 (2) and inserting “the donor”;

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

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

14 (HH) in section 3121(b)(3)—

15 (i) by striking “his father” in sub-
16 paragraph (A) and inserting “the child’s
17 father”;

18 (ii) by striking “his father” in sub-
19 paragraph (B) and inserting “the individ-
20 ual’s father”; and

21 (iii) by striking “his son” in subpara-
22 graph (B) and inserting “the individual’s
23 son”;

24 (II) in section 3306(c)(5)—

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

3 (ii) by striking “his father” and in-
4 sserting “the child’s father”;
5 (JJ) in section 3402(1)—

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

9 (ii) by striking “his taxable year”
10 both places it appears in paragraph (3)(B)
11 and inserting “the employee’s taxable
12 year”;

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

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

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

20 (NN) in section 7448(a)(8), by striking
21 “his death” and inserting “the individual’s
22 death”;

23 (OO) in subsections (d), (m), and (n) of
24 section 7448, by striking “his” each place it ap-
25 pears and inserting “the individual’s”;

1 (PP) in subsection (m) of section 7448, as
2 so amended, by striking “he” each place it ap-
3 pears and inserting “such judge or special trial
4 judge”; and

5 (QQ) in section 7448(q)—

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

8 (ii) by striking “to bring himself” and
9 inserting “to come”.