

United States Senate

WASHINGTON, DC 20510

June 20, 2011

The Honorable Douglas H. Shulman
Commissioner of Internal Revenue
Internal Revenue Service
U.S. Department of the Treasury
Washington, DC 20224

Dear Commissioner Shulman:

We write to urge the Internal Revenue Service to take timely action to address problems that same-sex couples encountered in filing their 2010 federal income tax returns.

Today, each of our States recognizes same-sex marriages or domestic partnerships that the federal government does not recognize. When couples in these relationships attempted to calculate their tax returns this year, they encountered significant problems. Many couples have reported spending substantial amounts of time and money trying to file accurate tax returns. As the National Taxpayer Advocate stated when it highlighted these problems in its 2010 report to Congress, “it is a basic responsibility of government to provide taxpayers with sufficient guidance to enable them to comply with the law.” We respectfully request that you take steps to provide appropriate guidance to these couples.

It is also imperative that the IRS address the specific problems encountered by couples in California, Washington, and Nevada, where state community property laws apply. In each of these States, same-sex couples who are married or in registered domestic partnerships must pool and then divide their incomes to calculate their tax liability. The federal tax system, however, currently has no means of linking an individual’s tax return to that of his or her spouse or domestic partner. As a result, underpayment penalties may be wrongly assessed or the system may incorrectly register that overpayments have been made. Similarly, when one person is self-employed, social security credits and tax liabilities may be wrongly attributed to the taxpayer who is not self-employed. These administrative difficulties threaten to add additional, unacceptable burdens to couples that already went to great lengths to file accurate returns.

Some, but not all, of these problems would be solved by repeal of the Defense of Marriage Act. We support repeal of that law. Until the full Congress acts, however, it is essential that the IRS take steps to ensure that couples have the

guidance they need to file accurate tax returns under current law and that an administrative system be in place to recognize accurate returns when they are filed. We look forward to hearing about actions you are taking to resolve these problems. If you have any questions, please contact Senator Feinstein's office at (202) 224-4933. Thank you for your consideration of these important issues.

Sincerely,

Dianne Feinstein

Patrick Leahy

Barack

Jeffrey A. Merkley

Maria Cantwell

John Warner

Tom Harkin

Patty Murray