



Legislation Text

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Res. No. 1717

Resolution calling on the federal government to simplify tax filing for same-sex married couples.

By Council Members Lander, Mendez, Van Bramer, Dromm, Brewer, Chin, Ferreras, Fidler, Gennaro, James, Koppell, Mark-Viverito, Palma and Rose

Whereas, According to the 2010 census, there are over 131,000 households with same-sex married couples in the United States; and

Whereas, Same-sex married couples in New York State must file their state tax returns using a married filing status even though their marriage is not legally recognized by the federal government; and

Whereas, In order to complete their state tax returns, same-sex married couples are advised by the New York State Department of Taxation and Finance to “compute their federal income tax... as if they were married for federal purposes”; and

Whereas, Because the Defense of Marriage Act (“DOMA”) precludes the federal government from recognizing legally married same-sex couples, each partner must file his or her federal return as a single person; and

Whereas, Since state tax returns require information from federal tax filings, same-sex married couples in New York State who wish to file jointly must complete four different sets of tax returns every year, including: one federal tax return for each spouse, one dummy joint federal tax return, and one joint state tax return; and

Whereas, In addition to inconvenience and loss of time, preparing multiple returns becomes a costly process for couples who seek professional assistance with their taxes; and

Whereas, President Barack Obama has repeatedly expressed his support for overturning the DOMA,

and in 2011 announced that the Department of Justice would no longer be defending the law; and

Whereas, In February 2013, the Obama Administration filed a brief in the matter of *United States v. Windsor*, in which it argued that Section 3 of DOMA, which allows state and federal governments to deny benefits to legally married same-sex couples normally afforded to opposite-sex married couples, is unconstitutional; and

Whereas, In March 2013, United States Solicitor General Donald Verrilli represented the Obama Administration before the Supreme Court in *United States v. Windsor*, where it argued that DOMA denies equal protection to legally married same-sex couples; and

Whereas, Twelve states and the District of Columbia, which recognize same-sex marriages, civil unions or some version of domestic partnerships, permit same-sex couples to file their income tax returns jointly; and

Whereas, According to the Human Rights Campaign, filing separate federal tax returns denies same-sex married couples certain benefits, including a lower combined tax obligation, tax-exempt employer spousal benefits, and exemptions for gift and estate taxes; and

Whereas, According to various reports, lack of federal recognition also requires married same-sex couples to answer a series of complicated questions such as identifying who should file as the head of the household, who should get the child tax credit, and to whom deductions for dependents, mortgage insurance, and charitable contributions should be assigned; and

Whereas, Perhaps one of the grossest injustices created by same-sex marriage's lack of federal recognition is that it forces couples to misrepresent the true nature of their relationship on government documents; and

Whereas, Until the federal government is prepared to recognize all legally valid unions, it is imperative that federal policy be modified to eliminate any disparate impact on married same-sex couples in the United States; now, therefore, be it

Resolved, That the Council of the City of New York calls on the federal government to simplify tax

filing for same-sex married couples.

DMB
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3/28/13