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13TH DISTRICT, CALIFORNIA

COMMITTEE ON
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ON TAXATION

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CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

239 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-5065

39300 CIVIC CENTER DRIVE, SUITE 220
FREMONT, CA 94538
(510) 494-1388

PETEMAIL@MAIL.HOUSE.GOV

April 18, 2011

The Honorable Douglas Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

cc: Nina E. Olson, National Taxpayer Advocate

Dear Commissioner Shulman:

We are supporters of fair and equitable administration of our tax laws and would like to raise an issue of concern with you. Each year there are 50,000 innocent spouse claims filed with the IRS and of these, approximately 2,000 are time barred. When Congress created the "innocent spouse" protection in the Internal Revenue Code, we did not mandate a statute of limitation for equitable relief claims raised under IRC 6015(f) and 66(c). However, the IRS enacted regulations limiting this protection to two years.

Under section 6015(f) and in the flush language of 66(c) of the Internal Revenue Code of 1986, equitable tax relief is available when "taking into account all facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either)." No time limit on raising this defense is provided within the Code itself. The IRS improperly "borrowed" the two-year statute of limitations in 6015(b) and 6015(c) and applied it to these other sections of the Code when it crafted Revenue Procedure 2000-15 and Treas. Reg. 1.6015-5, and in doing so, violated the spirit of the original law.

The lack of any statute of limitations within 6015(f) should be interpreted as intentional. The Supreme Court held in Russello v. United States, that where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion. 464 U.S. 16 (1983).

Section 6015 was created by Congress as part of the Internal Revenue Service Restructuring and Reform Act of 1998. Several of the women who testified before the Senate Finance Committee about the need for an innocent spouse rule would not have been eligible for relief if there had been a two-year statute of limitations to their claims. Section 6015(f) was meant to function as a "safety valve". When a spouse does not meet the requirements of 6015(b) and (c) the court may weigh all facts and circumstances under 6015(f). By restricting these claims to only the first two years after the start of a collection action, the

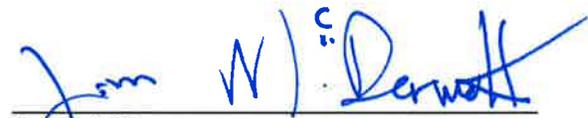
IRS determined that an analysis of all facts and circumstances is important in only the first two years. Therefore, in years three through ten, the only factor considered that may be weighed when there is a request for relief, is the date the defense is raised.

We urge the IRS to reconsider its position on Revenue Procedure 2000-15 and Treas. Reg. 1.6015-5 and withdraw the two-year statute of limitations imposed on 66(c) and 6015(f).

Thank you for your consideration.

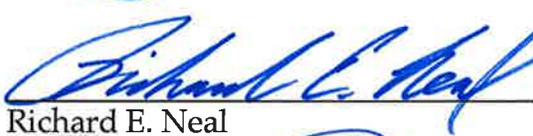
Sincerely,


Pete Stark

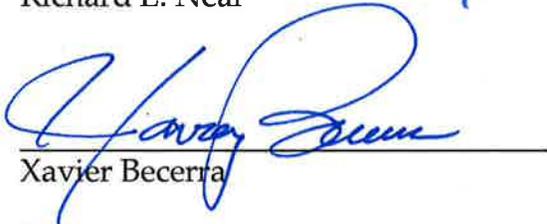

Jim McDermott


Sander M. Levin


John B. Larson

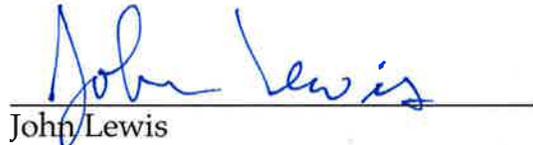

Richard E. Neal


Charles B. Rangel

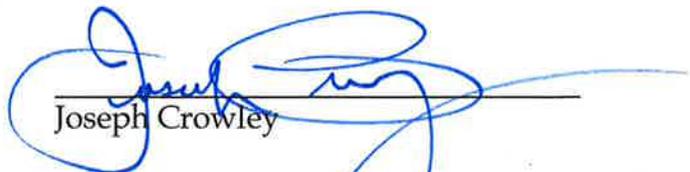

Xavier Becerra

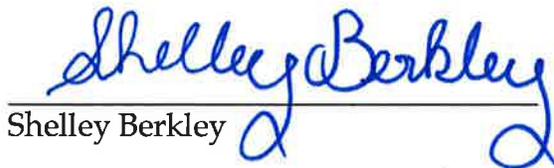

Lloyd Doggett


Ron Kind


John Lewis


Earl Blumenauer


Joseph Crowley

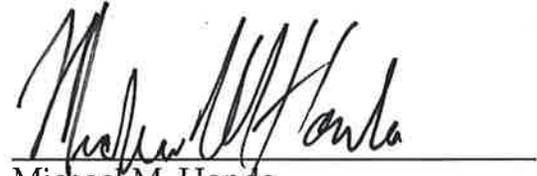

Shelley Berkley


Bill Pascrell, Jr.


Mike Thompson


Barney Frank


Danny K. Davis


Michael M. Honda

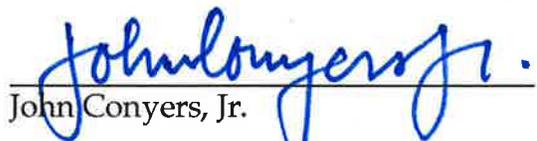

Jay Inslee


Raúl M. Grijalva

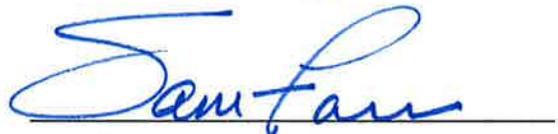

Louise Slaughter


Jim Moran

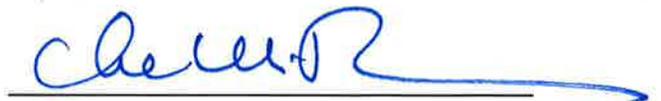

Jesse L. Jackson

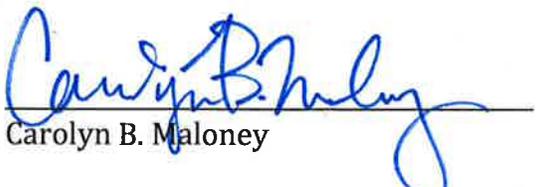

John Conyers, Jr.

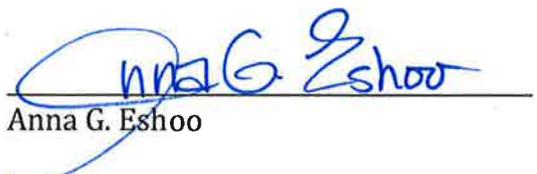

George Miller


Sam Farr


Lynn Woolsey


Chellie Pingree


Carolyn B. Maloney


Anna G. Eshoo

Keith Ellison

Keith Ellison

Alcee L. Hastings

Alcee L. Hastings

Corrine Brown

Corrine Brown

Barbara Lee

Barbara Lee

Peter DeFazio

Peter DeFazio

Rosa L. DeLauro

Rosa L. DeLauro

Jackie Speier

Jackie Speier

Steve Cohen

Steve Cohen

Allyson Y. Schwartz

Allyson Y. Schwartz

Peter Welch

Peter Welch

Rush Holt

Rush Holt

Betty Sutton

Betty Sutton

Maxine Waters

Maxine Waters

Wm. Lacy Clay

Wm. Lacy Clay

Bob Filner

Bob Filner

Lois Capps

Lois Capps


Michael H. Michaud


Lucille Roybal-Allard


Gary Ackerman