

118TH CONGRESS
1ST SESSION

S. 786

To amend the Internal Revenue Code of 1986 to treat certain amounts paid for physical activity, fitness, and exercise as amounts paid for medical care.

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2023

Mr. THUNE (for himself, Mr. MURPHY, Mr. CRAMER, Mr. TILLIS, Mr. MARSHALL, Mrs. CAPITO, Mr. WICKER, Mr. SCOTT of South Carolina, Ms. BALDWIN, Ms. SINEMA, and Mr. KING) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to treat certain amounts paid for physical activity, fitness, and exercise as amounts paid for medical care.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Personal Health In-
5 vestment Today Act of 2023” or the “PHIT Act of 2023”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to promote health and pre-
3 vent disease, particularly diseases related to being over-
4 weight or obese, by—

5 (1) encouraging healthier lifestyles;

6 (2) providing financial incentives to ease the fi-
7 nancial burden of engaging in healthy behavior; and

8 (3) increasing the ability of individuals and
9 families to participate in physical fitness activities.

10 **SEC. 3. CERTAIN AMOUNTS PAID FOR PHYSICAL ACTIVITY,**
11 **FITNESS, AND EXERCISE TREATED AS**
12 **AMOUNTS PAID FOR MEDICAL CARE.**

13 (a) IN GENERAL.—Paragraph (1) of section 213(d)
14 of the Internal Revenue Code of 1986 is amended by strik-
15 ing “or” at the end of subparagraph (C), by striking the
16 period at the end of subparagraph (D) and inserting “,
17 or”, and by inserting after subparagraph (D) the following
18 new subparagraph:

19 “(E) for qualified sports and fitness ex-
20 penses.”.

21 (b) QUALIFIED SPORTS AND FITNESS EXPENSES.—
22 Subsection (d) of section 213 of the Internal Revenue
23 Code of 1986 is amended by adding at the end the fol-
24 lowing new paragraph:

25 “(12) QUALIFIED SPORTS AND FITNESS EX-
26 PENSES.—

1 “(A) IN GENERAL.—The term ‘qualified
2 sports and fitness expenses’ means amounts
3 paid exclusively for the sole purpose of partici-
4 pating in a physical activity including—

5 “(i) for membership at a fitness facil-
6 ity,

7 “(ii) for participation or instruction in
8 physical exercise or physical activity, or

9 “(iii) for equipment used in a pro-
10 gram (including a self-directed program) of
11 physical exercise or physical activity.

12 “(B) OVERALL DOLLAR LIMITATION.—The
13 aggregate amount treated as qualified sports
14 and fitness expenses with respect to any tax-
15 payer for any taxable year shall not exceed
16 \$1,000 (\$2,000 in the case of a joint return or
17 a head of household (as defined in section
18 2(b))).

19 “(C) FITNESS FACILITY.—For purposes of
20 subparagraph (A)(i), the term ‘fitness facility’
21 means a facility—

22 “(i) which provides instruction in a
23 program of physical exercise, offers facili-
24 ties for the preservation, maintenance, en-
25 couragement, or development of physical

1 fitness, or serves as the site of such a pro-
2 gram of a State or local government,

3 “(ii) which is not a private club owned
4 and operated by its members,

5 “(iii) which does not offer golf, hunt-
6 ing, sailing, or riding facilities,

7 “(iv) the health or fitness component
8 of which is not incidental to its overall
9 function and purpose, and

10 “(v) which is fully compliant with the
11 State of jurisdiction and Federal anti-dis-
12 crimination laws.

13 “(D) TREATMENT OF EXERCISE VIDEOS,
14 ETC.—Videos, books, and similar materials
15 shall be treated as described in subparagraph
16 (A)(ii) if the content of such materials con-
17 stitutes instruction in a program of physical ex-
18 ercise or physical activity.

19 “(E) LIMITATIONS RELATED TO SPORTS
20 AND FITNESS EQUIPMENT.—Amounts paid for
21 equipment described in subparagraph (A)(iii)
22 shall be treated as qualified sports and fitness
23 expenses only—

1 “(i) if such equipment is utilized ex-
2 clusively for participation in fitness, exer-
3 cise, sport, or other physical activity,

4 “(ii) in the case of amounts paid for
5 apparel or footwear, if such apparel or
6 footwear is of a type that is necessary for,
7 and is not used for any purpose other
8 than, a specific physical activity, and

9 “(iii) in the case of amounts paid for
10 any single item of sports equipment (other
11 than exercise equipment), to the extent
12 such amounts do not exceed \$250.

13 “(F) PROGRAMS WHICH INCLUDE COMPO-
14 NENTS OTHER THAN PHYSICAL EXERCISE AND
15 PHYSICAL ACTIVITY.—Rules similar to the rules
16 of paragraph (6) shall apply in the case of any
17 program that includes physical exercise or phys-
18 ical activity and also other components. For
19 purposes of the preceding sentence, travel and
20 accommodations shall be treated as a separate
21 component.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 the date of the enactment of this Act.

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