

108TH CONGRESS
1ST SESSION

S. 1491

To amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

IN THE SENATE OF THE UNITED STATES

JULY 30 (legislative day, JULY 21), 2003

Mr. CORNYN 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 expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

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 “Workforce Health Im-
5 provement Program Act of 2003”.

6 **SEC. 2. EMPLOYER-PROVIDED OFF-PREMISES HEALTH**
7 **CLUB SERVICES.**

8 (a) TREATMENT AS FRINGE BENEFIT.—Subpara-
9 graph (A) of section 132(j)(4) of the Internal Revenue

1 Code of 1986 (relating to on-premises gyms and other ath-
2 letic facilities) is amended to read as follows:

3 “(A) IN GENERAL.—Gross income shall
4 not include—

5 “(i) the value of any on-premises ath-
6 letic facility provided by an employer to his
7 employees, and

8 “(ii) fees or membership expenses
9 paid by an employer to an athletic or fit-
10 ness facility described in subparagraph (C)
11 on behalf of its employees.”.

12 (b) ATHLETIC FACILITIES DESCRIBED.—Paragraph
13 (4) of section 132(j) of such Code is amended by adding
14 at the end the following new subparagraph:

15 “(C) CERTAIN ATHLETIC OR FITNESS FA-
16 CILITIES DESCRIBED.—For purposes of sub-
17 paragraph (A)(ii), an athletic or fitness facility
18 described in this subparagraph is a facility—

19 “(i) providing instruction in a pro-
20 gram of physical exercise or offering facili-
21 ties for the preservation, maintenance, en-
22 couragement, or development of physical
23 fitness,

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

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

3 “(iv) whose health or fitness facility is
4 not incidental to its overall function and
5 purpose, and

6 “(v) which is fully compliant with the
7 State of jurisdiction and Federal anti-dis-
8 criminations laws.”.

9 (c) EMPLOYER DEDUCTION FOR DUES TO CERTAIN
10 ATHLETIC FACILITIES.—

11 (1) IN GENERAL.—Paragraph (3) of section
12 274(a) of such Code (relating to denial of deduction
13 for club dues) is amended by adding at the end the
14 following new sentence: “The preceding sentence
15 shall not apply to fees or dues paid to athletic or fit-
16 ness facilities (within the meaning of section
17 132(j)(4)(C)).”.

18 (2) CONFORMING AMENDMENT.—Section
19 274(e)(4) of such Code is amended by inserting be-
20 fore the period at the end of the last sentence the
21 following: “(other than fees or dues paid to athletic
22 or fitness facilities (within the meaning of section
23 132(j)(4)(C)))”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

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