

111TH CONGRESS
1ST SESSION

H. R. 2106

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 HOUSE OF REPRESENTATIVES

APRIL 27, 2009

Mr. KIND (for himself and Mr. WAMP) introduced the following bill; which was referred to the Committee on Ways and Means

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 2009”.

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 the
7 employer’s employees, and

8 “(ii) so much of the fees, dues, or
9 membership expenses paid by an employer
10 to an athletic or fitness facility described
11 in subparagraph (C) on behalf of the em-
12 ployer’s employees as does not exceed \$900
13 per employer per year.”.

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

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

21 “(i) providing instruction in a pro-
22 gram of physical exercise, offering facilities
23 for the preservation, maintenance, encour-
24 agement, or development of physical fit-

1 ness, or serving 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) whose health or fitness facility is
8 not incidental to its overall function and
9 purpose, and

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

13 (c) EXCLUSION APPLIES TO HIGHLY COMPENSATED
14 EMPLOYEES ONLY IF NO DISCRIMINATION.—Paragraph
15 (1) of section 132(j) of such Code is amended—

16 (1) by striking “Paragraphs (1) and (2) of sub-
17 section (a)” and inserting “Paragraphs (1) and (2)
18 of subsection (a) and paragraph (4) of this sub-
19 section”, and

20 (2) in the heading by striking “EXCLUSIONS
21 UNDER SUBSECTION (A)(1) AND (2)” and inserting
22 “CERTAIN EXCLUSIONS”.

23 (d) EMPLOYER DEDUCTION FOR DUES TO CERTAIN
24 ATHLETIC FACILITIES.—

1 (1) IN GENERAL.—Paragraph (3) of section
2 274(a) of such Code (relating to denial of deduction
3 for club dues) is amended by adding at the end the
4 following new sentence: “The preceding sentence
5 shall not apply to so much of the fees, dues, or
6 membership expenses paid to athletic or fitness fa-
7 cilities (within the meaning of section 132(j)(4)(C))
8 as does not exceed \$900 per employee per year.”.

9 (2) CONFORMING AMENDMENT.—Section
10 274(e)(4) of such Code is amended by inserting “the
11 first sentence of” before “subsection (a)(3)”.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 the date of the enactment of this Act.

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