

118TH CONGRESS
1ST SESSION

S. 187

To amend the Internal Revenue Code of 1986 to deny the trade or business expense deduction for the reimbursement of employee costs of child gender transition procedure or travel to obtain an abortion.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2023

Mr. RUBIO (for himself and Mr. DAINES) 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 deny the trade or business expense deduction for the reimbursement of employee costs of child gender transition procedure or travel to obtain an abortion.

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 “No Tax Breaks for
5 Radical Corporate Activism Act of 2023”.

6 **SEC. 2. DENIAL OF DEDUCTION.**

7 (a) IN GENERAL.—Section 162 of the Internal Rev-
8 enue Code of 1986 is amended by redesignating subsection

1 (s) as subsection (t), and by inserting after subsection (r)
 2 the following new subsection:

3 “(s) DISALLOWANCE OF CERTAIN EXPENSES RELAT-
 4 ING TO ABORTION OR CHILD GENDER TRANSITION.—

5 “(1) IN GENERAL.—No deduction shall be al-
 6 lowed under this chapter to an employer for any
 7 amount paid or incurred to reimburse an employee
 8 for, or to otherwise pay, expenses in connection
 9 with—

10 “(A) travel for the purpose of obtaining an
 11 abortion, or

12 “(B) any gender transition procedure for a
 13 minor child of the employee.

14 “(2) DEFINITIONS.—For purposes of this sub-
 15 section—

16 “(A) GENDER TRANSITION PROCEDURE.—

17 “(i) IN GENERAL.—The term ‘gender
 18 transition procedure’ means any medical or
 19 surgical service which seeks to alter or re-
 20 move physiological or anatomical charac-
 21 teristics or features which are typical for
 22 the individual’s biological sex, or to instill
 23 or create physiological or anatomical char-
 24 acteristics which resemble a sex different

1 from the individual's birth sex, for the pur-
2 pose of gender transition, including—

3 “(I) physician's services and in-
4 patient and outpatient hospital serv-
5 ices, including gender transition sur-
6 gery, and

7 “(II) prescribed drugs related to
8 gender transition, including puberty-
9 blocking drugs, cross-sex hormones, or
10 other mechanisms to promote the de-
11 velopment of feminizing or
12 masculinizing features (in the opposite
13 sex).

14 “(ii) EXCEPTIONS.—Such term does
15 not include—

16 “(I) services for treatment of a
17 medically verifiable disorder of sex de-
18 velopment, including—

19 “(aa) external biological sex
20 characteristics which are
21 irresolvably ambiguous, such as
22 presence of 46 XX chromosomes
23 with virilization, 46 XY chro-
24 mosomes with undervirilization,

1 or both ovarian and testicular tis-
2 sue, or

3 “(bb) other physician-diag-
4 nosed disorder of sexual develop-
5 ment, with respect to which the
6 physician has determined
7 through genetic or biochemical
8 testing that the individual does
9 not have normal sex chromosome
10 structure, sex steroid hormone
11 production, or sex steroid hor-
12 mone action for a biological male
13 or biological female, or

14 “(II) treatment of any infection,
15 injury, disease, or disorder caused or
16 exacerbated by the performance of
17 any gender transition procedure,
18 whether or not the gender transition
19 procedure was performed in accord-
20 ance with State and Federal law or
21 whether not a deduction for expenses
22 in connection with the gender transi-
23 tion procedure is allowable under this
24 chapter.

1 “(iii) GENDER.—The term ‘gender’
2 means the psychological, behavioral, social,
3 and cultural aspects of being male or fe-
4 male.

5 “(iv) GENDER TRANSITION.—The
6 term ‘gender transition’ means the process
7 in which an individual goes from identi-
8 fying with and living as a gender that cor-
9 responds to his or her biological sex to
10 identifying with and living as a gender dif-
11 ferent from his or her biological sex, and
12 may involve social, legal, or physical
13 changes.

14 “(v) GENDER TRANSITION SUR-
15 GERY.—

16 “(I) IN GENERAL.—The term
17 ‘gender transition surgery’ means any
18 surgical service, including genital or
19 non-genital surgery, performed for the
20 purpose of assisting an individual with
21 a gender transition.

22 “(II) EXCEPTION.—Such term
23 does not include any service per-
24 formed because the individual suffers
25 from a physical disorder, physical in-

1 jury, or physical illness which would,
2 as certified by a physician, place the
3 individual in imminent danger of
4 death or impairment of major bodily
5 function unless surgery is performed.

6 “(vi) GENITAL SURGERY.—The term
7 ‘genital surgery’ includes surgical proce-
8 dures such as—

9 “(I) penectomy, orchiectomy,
10 vaginoplasty, clitoroplasty, or
11 vulvoplasty for biologically male pa-
12 tients, and

13 “(II) hysterectomy, ovariectomy,
14 reconstruction of the fixed part of the
15 urethra with or without a
16 metoidioplasty or a phalloplasty, vagi-
17 nectomy, scrotoplasty, or implantation
18 of erection or testicular prostheses for
19 biologically female patients.

20 “(vii) NON-GENITAL SURGERY.—The
21 term ‘non-genital surgery’ includes surgical
22 procedures such as liposuction, lipofilling,
23 voice surgery, and—

24 “(I) augmentation mammoplasty,
25 facial feminization surgery, thyroid

1 cartilage reduction, gluteal augmenta-
2 tion (whether implants or lipofilling),
3 hair reconstruction, or various aes-
4 thetic procedures for biologically male
5 patients, and

6 “(II) subcutaneous mastectomy,
7 pectoral implants, or various aesthetic
8 procedures for biologically female pa-
9 tients.

10 “(viii) PUBERTY-BLOCKING DRUGS.—
11 The term ‘puberty-blocking drugs’ means
12 Gonadotropin-releasing hormone (GnRH)
13 analogues or other synthetic drugs used in
14 biological males to stop luteinizing hor-
15 mone secretion and therefore testosterone
16 secretion, and synthetic drugs used in bio-
17 logical females to stop the production of
18 estrogen and progesterone, when used to
19 delay or suppress pubertal development in
20 children for the purpose of assisting an in-
21 dividual with a gender transition.

22 “(ix) CROSS-SEX HORMONES.—The
23 term ‘cross-sex hormones’ means testos-
24 terone or other androgens given to biologi-
25 cal females at doses which are profoundly

1 larger or more potent than would normally
2 occur naturally in healthy biological fe-
3 males, and estrogen given to biological
4 males at doses which are profoundly larger
5 or more potent than would normally occur
6 naturally in healthy biological males.

7 “(B) MINOR CHILD.—The term ‘minor
8 child’ means an individual who has not attained
9 age 18.”.

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

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