

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.

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## 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

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## 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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