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117TH CONGRESS
2D SESSION

S. 4131

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

MAY 3, 2022

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''No Tax Breaks for Radical Corporate Activism Act''.

SEC. 2. DENIAL OF DEDUCTION.

(a) IN GENERAL.—Section 162 of the Internal Revenue Code of 1986 is amended by redesignating subsection

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

''(s) DISALLOWANCE OF CERTAIN EXPENSES RELATING TO ABORTION OR CHILD GENDER TRANSITION.—

''(1) IN GENERAL.—No deduction shall be allowed under this chapter to an employer for any amount paid or incurred to reimburse an employee for, or to otherwise pay, expenses in connection with—

''(A) travel for the purpose of obtaining an abortion, or

''(B) any gender transition procedure for a minor child of the employee.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) GENDER TRANSITION PROCEDURE.—

''(i) IN GENERAL.—The term 'gender transition procedure' means any medical or surgical service which seeks to alter or remove physiological or anatomical characteristics or features which are typical for the individual's biological sex, or to instill or create physiological or anatomical characteristics which resemble a sex different

from the individual's birth sex, for the purpose of gender transition, including—

"(I) physician's services and inpatient and outpatient hospital services, including gender transition surgery, and

"(II) prescribed drugs related to gender transition, including puberty-blocking drugs, cross-sex hormones, or other mechanisms to promote the development of feminizing or masculinizing features (in the opposite sex).

"(ii) EXCEPTIONS.—Such term does not include—

"(I) services for treatment of a medically-verifiable disorder of sex development, including—

"(aa) external biological sex characteristics which are irresolvably ambiguous, such as presence of 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization,

or both ovarian and testicular tissue, or

''(bb) other physician-diagnosed disorder of sexual development, with respect to which the physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a biological male or biological female, or

''(II) treatment of any infection, injury, disease, or disorder caused or exacerbated by the performance of any gender transition procedure, whether or not the gender transition procedure was performed in accordance with State and Federal law or whether not a deduction for expenses in connection with the gender transition procedure is allowable under this chapter.

"(iii) GENDER.—The term 'gender' means the psychological, behavioral, social, and cultural aspects of being male or female.

"(iv) GENDER TRANSITION.—The term 'gender transition' means the process in which an individual goes from identifying with and living as a gender that corresponds to his or her biological sex to identifying with and living as a gender different from his or her biological sex, and may involve social, legal, or physical changes.

"(v) GENDER TRANSITION SURGERY.—

"(I) IN GENERAL.—The term 'gender transition surgery' means any surgical service, including genital or non-genital surgery, performed for the purpose of assisting an individual with a gender transition.

"(II) EXCEPTION.—Such term does not include any service performed because the individual suffers from a physical disorder, physical in-

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

''(vi) GENITAL SURGERY.—The term 'genital surgery' includes surgical procedures such as—

''(I) penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biologically male patients, and

''(II) hysterectomy, ovariectomy, reconstruction of the fixed part of the urethra with or without a metoidioplasty or a phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses for biologically female patients.

''(vii) NON-GENITAL SURGERY.—The term 'non-genital surgery' includes surgical procedures such as liposuction, lipofilling, voice surgery, and—

''(I) augmentation mammoplasty, facial feminization surgery, thyroid

cartilage reduction, gluteal augmentation (whether implants or lipofilling), hair reconstruction, or various aesthetic procedures for biologically male patients, and

"(II) subcutaneous mastectomy, pectoral implants, or various aesthetic procedures for biologically female patients.

"(viii) PUBERTY-BLOCKING DRUGS.—The term 'puberty-blocking drugs' means Gonadotropin-releasing hormone (GnRH) analogues or other synthetic drugs used in biological males to stop luteinizing hormone secretion and therefore testosterone secretion, and synthetic drugs used in biological females to stop the production of estrogen and progesterone, when used to delay or suppress pubertal development in children for the purpose of assisting an individual with a gender transition.

"(ix) CROSS-SEX HORMONES.—The term 'cross-sex hormones' means testosterone or other androgens given to biological females at doses which are profoundly

larger or more potent than would normally occur naturally in healthy biological females, and estrogen given to biological males at doses which are profoundly larger or more potent than would normally occur naturally in healthy biological males.

''(B) MINOR CHILD.—The term 'minor child' means an individual who has not attained age 18.''.

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

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