

111TH CONGRESS
1ST SESSION

H. R. 3263

To amend the Internal Revenue Code of 1986 to provide that amounts paid for foods for special dietary use, dietary supplements, or medical foods shall be treated as medical expenses.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2009

Mr. BURTON of Indiana 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 provide that amounts paid for foods for special dietary use, dietary supplements, or medical foods shall be treated as medical expenses.

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 shall be known as the “Dietary Supplement
5 Tax Fairness Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1 (1) the inclusion of foods for special dietary
2 use, dietary supplements, and medical foods in the
3 deduction for medical expenses does not subject such
4 items to regulation as drugs,

5 (2) the Internal Revenue Code of 1986 treats
6 such items as allowable for the medical expense de-
7 duction, but only if such items are prescribed drugs,

8 (3) such items have been shown through re-
9 search and historical use to be a valuable benefit to
10 human health, in particular disease prevention and
11 overall good health, and

12 (4) children with inborn errors of metabolism,
13 metabolic disorders, and autism, and all individuals
14 with diabetes, autoimmune disorders, and chronic in-
15 flammatory conditions, frequently require daily die-
16 tary interventions as well as medical interventions to
17 manage their conditions and such dietary interven-
18 tions often become a significant economic burden on
19 such individuals.

20 **SEC. 3. AMOUNTS PAID FOR FOODS FOR SPECIAL DIETARY**
21 **USE, DIETARY SUPPLEMENTS, OR MEDICAL**
22 **FOODS TREATED AS MEDICAL EXPENSES.**

23 (a) IN GENERAL.—Paragraph (1) of section 213(d)
24 of the Internal Revenue Code of 1986 (relating to medical,
25 dental, etc., expenses) is amended by redesignating sub-

1 paragraphs (C) and (D) as subparagraphs (D) and (E),
2 respectively, and by inserting after subparagraph (B) the
3 following new subparagraph:

4 “(C) for foods for special dietary use, die-
5 tary supplements (as defined in section 201 of
6 the Federal Food, Drug, and Cosmetic Act),
7 and medical foods.”.

8 (b) SPECIAL RULE FOR INSURANCE COVERING
9 FOODS FOR SPECIAL DIETARY USE, DIETARY SUPPLE-
10 MENTS, AND MEDICAL FOODS.—Subsection (d) of section
11 213 of the Internal Revenue Code of 1986 (relating to
12 medical, dental, etc., expenses) is amended by adding at
13 the end the following new paragraph:

14 “(12) SPECIAL RULE FOR INSURANCE COV-
15 ERING FOODS FOR SPECIAL DIETARY USE, DIETARY
16 SUPPLEMENTS, AND MEDICAL FOODS.—Amounts
17 paid for insurance covering foods and supplements
18 referred to in paragraph (1)(C) shall be treated as
19 described in paragraph (1)(E) only if such foods and
20 supplements comply with applicable good manufac-
21 turing practices prescribed by the Food and Drug
22 Administration or with other comparable stand-
23 ards.”.

24 (c) CONFORMING AMENDMENTS.—

1 (1) Subparagraph (E) of section 213(d)(1) of
2 the Internal Revenue Code of 1986, as redesignated
3 by subsection (a), is amended by striking “subpara-
4 graphs (A) and (B)” and inserting “subparagraphs
5 (A), (B), and (C)”.

6 (2) The last sentence of section 213(d)(1) of
7 such Code is amended by striking “subparagraph
8 (D)” and inserting “subparagraph (E)”.

9 (3) Paragraph (6) of section 213(d) of such
10 Code is amended—

11 (A) by striking “and (C)” and inserting
12 “(C), and (D)”, and

13 (B) by striking “paragraph (1)(D)” in
14 subparagraph (A) and inserting “paragraph
15 (1)(E)”.

16 (4) Paragraph (7) of section 213(d) of such
17 Code is amended by striking “and (C)” and insert-
18 ing “(C), and (D)”.

19 (5) Sections 72(t)(2)(D)(i)(III) and
20 7702B(a)(4) of such Code are each amended by
21 striking “section 213(d)(1)(D)” and inserting “sec-
22 tion 213(d)(1)(E)”.

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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