

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.

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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.

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”.

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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