

110TH CONGRESS  
1ST SESSION

# H. R. 1748

To amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2007

Mr. WAMP (for himself, Mr. UDALL of Colorado, Mr. KIND, and Mr. RAMSTAD) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

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 “Workforce Health Im-  
5 provement Program Act of 2007”.

6 **SEC. 2. EMPLOYER-PROVIDED OFF-PREMISES HEALTH**  
7 **CLUB SERVICES.**

8 (a) TREATMENT AS FRINGE BENEFIT.—Subpara-  
9 graph (A) of section 132(j)(4) of the Internal Revenue

1 Code of 1986 (relating to on-premises gyms and other ath-  
2 letic facilities) is amended to read as follows:

3 “(A) IN GENERAL.—Gross income shall  
4 not include—

5 “(i) the value of any on-premises ath-  
6 letic facility provided by an employer to the  
7 employer’s employees, and

8 “(ii) so much of the fees, dues, or  
9 membership expenses paid by an employer  
10 to an athletic or fitness facility described  
11 in subparagraph (C) on behalf of the em-  
12 ployer’s employees as does not exceed \$900  
13 per employer per year.”.

14 (b) ATHLETIC FACILITIES DESCRIBED.—Paragraph  
15 (4) of section 132(j) of such Code is amended by adding  
16 at the end the following new subparagraph:

17 “(C) CERTAIN ATHLETIC OR FITNESS FA-  
18 CILITIES DESCRIBED.—For purposes of sub-  
19 paragraph (A)(ii), an athletic or fitness facility  
20 described in this subparagraph is a facility—

21 “(i) providing instruction in a pro-  
22 gram of physical exercise, offering facilities  
23 for the preservation, maintenance, encour-  
24 agement, or development of physical fit-

1                   ness, or serving 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) whose health or fitness facility is  
8                   not incidental to its overall function and  
9                   purpose, and

10                  “ (v) which is fully compliant with the  
11                  State of jurisdiction and Federal anti-dis-  
12                  crimination laws.”.

13                  (c) EXCLUSION APPLIES TO HIGHLY COMPENSATED  
14                  EMPLOYEES ONLY IF NO DISCRIMINATION.—Paragraph  
15                  (1) of section 132(j) of such Code is amended—

16                         (1) by striking “Paragraphs (1) and (2) of sub-  
17                         section (a)” and inserting “Paragraphs (1) and (2)  
18                         of subsection (a) and paragraph (4) of subsection  
19                         (j)”, and

20                         (2) in the heading by striking “EXCLUSIONS  
21                         UNDER SUBSECTION (A)(1) AND (2)” and inserting  
22                         “CERTAIN EXCLUSIONS”.

23                  (d) EMPLOYER DEDUCTION FOR DUES TO CERTAIN  
24                  ATHLETIC FACILITIES.—

1           (1) IN GENERAL.—Paragraph (3) of section  
2           274(a) of such Code (relating to denial of deduction  
3           for club dues) is amended by adding at the end the  
4           following new sentence: “The preceding sentence  
5           shall not apply to so much of the fees, dues, or  
6           membership expenses paid to athletic or fitness fa-  
7           cilities (within the meaning of section 132(j)(4)(C))  
8           as does not exceed \$900 per employee per year.”.

9           (2) CONFORMING AMENDMENT.—Section  
10          274(e)(4) of such Code is amended by inserting “the  
11          first sentence of” before “subsection (a)(3)”.

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

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