

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1763

To amend the Internal Revenue Code of 1986 to deny the deduction for advertising and promotional expenses for prescription pharmaceuticals.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 8, 2009

Mr. FRANKEN (for himself, Mr. WHITEHOUSE, and Mr. BROWN) 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 deduction for advertising and promotional expenses for prescription pharmaceuticals.

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 “Protecting Americans  
5 from Drug Marketing Act”.

1 **SEC. 2. DISALLOWANCE OF DEDUCTION FOR ADVERTISING**  
 2 **AND PROMOTIONAL EXPENSES FOR PRE-**  
 3 **SCRIPTION PHARMACEUTICALS.**

4 (a) IN GENERAL.—Part IX of subchapter B of chap-  
 5 ter 1 of subtitle A of the Internal Revenue Code of 1986  
 6 (relating to items not deductible) is amended by adding  
 7 at the end the following new section:

8 **“SEC. 280I. DISALLOWANCE OF DEDUCTION FOR PRESCRIP-**  
 9 **TION PHARMACEUTICALS ADVERTISING AND**  
 10 **PROMOTIONAL EXPENSES.**

11 “(a) IN GENERAL.—No deduction shall be allowed  
 12 under this chapter for expenses relating to advertising or  
 13 promoting the sale and use of prescription pharma-  
 14 ceuticals for any taxable year.

15 “(b) ADVERTISING OR PROMOTING.—For purposes of  
 16 this section, the term ‘advertising or promoting’ includes  
 17 direct to consumer advertising in any media and any activ-  
 18 ity designed to promote the use of a prescription pharma-  
 19 ceutical directed to providers or others who may make de-  
 20 cisions about the use of prescription pharmaceuticals (in-  
 21 cluding the provision of product samples, free trials, and  
 22 starter kits).”.

23 (b) CONFORMING AMENDMENT.—The table of sec-  
 24 tions for such part IX of the Internal Revenue Code of  
 25 1986 is amended by adding after the item relating to sec-  
 26 tion 280H the following new item:

“Sec. 280I. Disallowance of deduction for prescription pharmaceuticals advertising and promotional expenses.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to amounts paid or incurred after  
3 the date of the enactment of this Act, in taxable years  
4 ending after such date.

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