

114TH CONGRESS
2D SESSION

S. 2623

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

IN THE SENATE OF THE UNITED STATES

MARCH 3, 2016

Mr. FRANKEN (for himself, Mr. WHITEHOUSE, Mr. BROWN, and Mr. UDALL) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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

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 DRUGS.**

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 DIRECT-**
 9 **TO-CONSUMER ADVERTISING OF PRESCRIP-**
 10 **TION DRUGS.**

11 “(a) IN GENERAL.—No deduction shall be allowed
 12 under this chapter for expenses relating to direct-to-con-
 13 sumer advertising of prescription drugs for any taxable
 14 year.

15 “(b) DIRECT-TO-CONSUMER ADVERTISING.—For
 16 purposes of this section, the term ‘direct-to-consumer ad-
 17 vertising’ means any dissemination, by or on behalf of a
 18 sponsor of a prescription drug product (as such term is
 19 defined in section 735(3) of the Federal Food, Drug, and
 20 Cosmetic Act), of an advertisement which—

21 “(1) is in regard to such prescription drug
 22 product, and

23 “(2) primarily targeted to the general public,
 24 including through—

25 “(A) publication in journals, magazines,
 26 other periodicals, and newspapers,

1 “(B) broadcasting through media such as
2 radio, television, and telephone communication
3 systems, and

4 “(C) dissemination on the Internet (includ-
5 ing social media).”.

6 (b) CONFORMING AMENDMENT.—The table of sec-
7 tions for such part IX of the Internal Revenue Code of
8 1986 is amended by adding after the item relating to sec-
9 tion 280H the following new item:

 “Sec. 280I. Disallowance of deduction for direct-to-consumer advertising of pre-
 scription drugs.”.

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

○