

116TH CONGRESS  
1ST SESSION

# S. 73

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

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## IN THE SENATE OF THE UNITED STATES

JANUARY 10, 2019

Mrs. SHAHEEN (for herself, Mr. BROWN, Mr. KING, Ms. HASSAN, Mr. WHITEHOUSE, Ms. BALDWIN, Mrs. GILLIBRAND, Mr. VAN HOLLEN, Mr. SANDERS, Mr. REED, Ms. KLOBUCHAR, Mr. BLUMENTHAL, Ms. WARREN, Ms. HIRONO, Ms. SMITH, Mr. SCHATZ, Mr. DURBIN, Mr. BENNET, Mrs. FEINSTEIN, Mr. MANCHIN, and Mr. LEAHY) 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 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 “End Taxpayer Sub-  
5 sidies for Drug Ads 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, direct mail, and billboards, and

4           “(C) dissemination on the Internet or  
5 through digital platforms (including social  
6 media, mobile media, web applications, digital  
7 applications, mobile applications, and electronic  
8 applications).”.

9           (b) CONFORMING AMENDMENT.—The table of sec-  
10 tions for such part IX of the Internal Revenue Code of  
11 1986 is amended by adding after the item relating to sec-  
12 tion 280H the following new item:

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

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

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