

INTERNAL REVENUE SERVICE

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The Honorable Rick Santorum
United States Senate
Washington, D.C. 20515

Attention: Caitlin Kelly

Dear Senator Santorum:

I am responding to your inquiry of February 7, 2005, on behalf of your constituent,

. He wrote about deducting the cost of drugs and needles for which he has no insurance coverage.

can deduct expenses for personal medical care, as well as those of a spouse, or a dependent, paid during the taxable year as an itemized deduction. The law limits the deduction to the amount by which his total medical expenses exceed his adjusted gross income for that year. He cannot deduct expenses reimbursed by insurance or otherwise. Medical care includes amounts paid for the "diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting a structure or function of the body." He can deduct only expenses incurred primarily for medical care. [Sections 213(a) and 213(d)(1)(A) of the Internal Revenue Code, and Section 1.213-1(e)(1)(ii) of the Income Tax Regulations.]

can deduct the cost of a medicine or drug as a medical care expense if the item is a prescribed drug (except for insulin). A prescribed drug is a drug or biological that requires a prescription for an individual's use. Thus, he cannot deduct a medicine he can obtain without a prescription even if a physician issues a prescription for it. This means that he cannot deduct the cost of drugs available over-the-counter. However, the prescription requirement does not apply to other medical supplies, such as needles used to inject drugs. [Sections 213(b) and 213(d)(3).]

I hope this information is helpful. If you have any questions, please call me at

Sincerely,

Robert M. Brown
Associate Chief Counsel
(Income Tax and Accounting)