



**AdvaMed**

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The Honorable Donald J Trump  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear President Trump,

Congratulations on the passage of comprehensive tax reform. This is a major accomplishment for your Administration and our country. This is due to your leadership, and I thank you for your effort.

Unfortunately, while Congress worked with you to advance this major legislative undertaking, they have failed to address a punitive tax that singles out the American medical technology industry, threatening jobs in the U.S. and future innovations for patients, and washing away the benefits of tax reform for our companies.

In 11 days, the medical device excise tax is set to be reinstated, meaning a massive tax increase is on its way. I am writing to you to underscore the devastating impact this tax has and will have on our industry. I know you have long supported repealing this onerous tax. I want to emphasize why, unlike other business taxes, retroactive relief from the device tax is not feasible and why action this year is essential.

Since its enactment, the medical device tax has had a significant negative impact on medical innovation and has resulted in the loss or deferred creation of jobs, reduced R&D, and slowed capital expansion. Information drawn from data assembled by the U.S. Department of Commerce showed that the medical technology sector saw a loss of nearly 29,000 jobs while the medical device excise tax was in effect. The onerous effects of this tax have directly impacted a dynamic and innovative sector that provides quality manufacturing jobs, at above average wages, here in the United States.

At the end of 2015, the tax was suspended. That suspension is set to expire on December 31, 2017. The suspension of the tax freed up resources that have been re-invested in R&D, innovation and growth, new hiring, and capital formation and expansion, providing more opportunities to help address the needs of patients. But these investments and improvements cannot be continued if action is not taken to address the tax immediately.

I understand that there have been discussions about addressing the device tax and other policies



early next year. The concern we have in applying retroactive relief to the device tax is a function of the unique status of this specific excise tax, compared to other business taxes that are generally paid at the end of the year.

For the device tax, our companies begin making payments in January and going forward on a bi-weekly basis. Companies will spend millions in compliance costs to ensure processes and reporting are up and running to be ready to submit money to the IRS and avoid steep compliance penalties. Many companies have delayed these efforts in anticipation of repeal or further suspension of the tax, and will be incurring new costs that are not recoverable in a retroactive fix.

If the tax is subsequently repealed or suspended next year, the IRS will have to go through the cumbersome and lengthy process of refunding payments to companies. This process is made more challenging by the fact that the money is deposited in the general Treasury accounts and is based on individual company sales. If companies make payments and the tax is retroactively repealed/suspended, then it is likely the IRS will have to issue guidance and set up an administrative process to issue numerous refund claims from companies. The entire process could take months before all payments are returned to companies.

It is vital that you work with Congress to ensure they do not take a step backward and allow this devastating tax to be reinstated on the industry. Retroactive action by Congress next year cannot fully undo the impact of allowing this tax to be triggered on January 1.

Short of legislative action, I would strongly encourage you to direct the Treasury and IRS to provide whatever administrative relief you can. I would refer you to our November 10 letter to the IRS where we lay out the steps that can be taken to waive the bi-weekly deposit requirements.

Addressing the device tax now will provide medical technology innovators with the certainty necessary to support future job growth and sustainable, cutting-edge R&D that will ultimately lead to the next generation of breakthroughs in patient care and treatment.

Thank you for your consideration and your support of the medical technology industry, its employees, and the patients we serve.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Whitaker", with a long horizontal flourish extending to the right.

Scott Whitaker  
President & CEO  
AdvaMed