Overview

The medical device tax is fundamentally flawed public policy.

It is already having a major negative impact on the competitiveness of a vital, world-leading American industry. It slashes current and future manufacturing jobs that our economy badly needs. And it will penalize today’s and tomorrow’s patients by reducing investment in developing new treatments and cures.

Proponents of the medical device tax make several claims in support of keeping this flawed policy in place. These claims are misleading and, in some cases, simply false.

Review of claims advanced by opponents of repeal

Claim: Health insurance coverage under the Affordable Care Act would be put at risk by repeal. If the tax is repealed, Congress must find an offset to pay-for repeal.

Fact: The revenue raised by the tax was used in a bookkeeping sense to offset the cost of coverage when the bill was originally passed. Today, however, the tax is simply another source of general revenue to the Treasury. Repeal of the tax will not reduce subsidies to purchase insurance coverage under the ACA by a single dime or, in fact, impact any other provision of the law. Repeal is an issue of corporate tax policy, not health reform policy.

Further, the CBO and JCT determined, in their March 2015 estimate of the ACA’s coverage provisions, that the overall costs of these provisions has decreased by $204 billion. This reduction is more than 7 times the estimated 10-year cost of repealing the device tax. Clearly, repeal of the device tax will not have a significant impact on the overall finances of the ACA, despite prior concerns

Industry will look to Congress to determine whether repeal must be offset and, if so, what that offset should be. The device tax is fundamentally flawed policy that should be repealed, and Congress should determine the appropriate way to accomplish that as quickly as possible.

Claim: The medical technology industry will benefit from expanded coverage under the Act and should pay its fair share of the cost of expanded coverage, as other health industries have done.

Fact: As the result of the tax, the medical technology industry is the victim of double jeopardy. It effectively paid twice--once through its share of the Medicare cuts to its customers, and again through the medical device excise tax. Other industries only had to pay once.

Moreover, the benefit of coverage expansion to medical device and diagnostics companies is minimal—far smaller than other health sectors because of the disproportionate utilization of medical technology by the aged, even as compared to other health services.

- Medical device companies are suppliers to health providers like hospitals, nursing homes, clinical labs, and imaging centers--not direct providers of services. Reimbursement cuts to providers are passed on to device companies through lower prices, substitution of products, and deferral or cancellation of capital equipment. According to an analysis by the respected actuarial firm of Milliman, Inc., spending on devices attributable to Medicare patients by all providers totals 12% of total Medicare spending. If the cuts in the ACA affect spending on medical technology proportionately, the cuts to medical device makers during the original ten-
year budget window as the result of the ACA would be $32.1 billion—more than half again the size of the device tax for the same period.

- The over-65 population is fully insured under Medicare and the older under-65 population has lower rates of non-coverage than the under-65 adult population as a whole. Approximately two-thirds of current medical technology spending goes to services for the Medicare populations.¹

Claim: The tax has a disproportionate impact on smaller, pre-profit device companies. Congress should consider restructuring the tax, but not repealing it.

Fact: The medical device tax is fundamentally flawed policy and should be completely repealed. There is no policy justification for taxing innovation that leads to better health care outcomes for patients. Additionally, the medical technology ecosystem is entirely interconnected, with smaller and start-up companies often relying on funding from larger companies to invest in innovation and grow. Restructuring the device tax to only impact larger companies still puts pressure on the entire ecosystem by reducing investment resources to fuel new growth and consequently threatens innovation.

Claim: The industry is doing fine. The tax won’t really result in lay-offs, reduced job growth or R&D cuts.

Fact: The U.S. medical technology industry saw its jobs ranks fall by nearly 29,000 while the medical device excise tax was in effect, according to data from the U.S. Department of Commerce. A 2017 study by the American Action Forum assessed that this rate of job losses would likely return if the tax goes back into effect.²

Claim: If the medical device tax is repealed, companies will use those funds only to boost profits and executive compensation.

Fact: In a 2015 industry survey, 71% of respondents indicated that they would reinstate foregone job growth if the tax is repealed, and 85% said they would reinstate forgone R&D projects.

Claim: If the device tax is repealed, every other industry that was taxed or had its reimbursement cut will demand similar treatment.

Fact: Each case should be assessed on its own merits. The case for repealing the medical device tax is strong and in the public interest.

In addition, there are some clear differences between the medical device industry and other health industries:
- The medical device industry is the only industry that was asked to pay twice.
- The medical device industry is one of the few facing competition in an international marketplace.
- The medical device industry is the only one that contributes billions in export dollars to the U.S. economy and still enjoys a favorable balance of trade.

¹ Estimate by the Moran Company for AdvaMed.