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POLICY & ACTION FROM CONSUMER REPORTS

HEALTH POLICY REPORT
JUNE 2015

Medical Device Tax: What's the Real Industry Impact?

SUMMARY

The Affordable Care Act (ACA), passed in March of 2010, has expanded health insurance access to millions of Americans, leading to the lowest rate of uninsurance in decades. This expanded and improved coverage is paid for through a variety of revenue raisers that were written into the law, including an excise tax on medical devices. While the medical device industry has claimed the tax harms industry employment, official employment numbers tell a different story.

Introduction

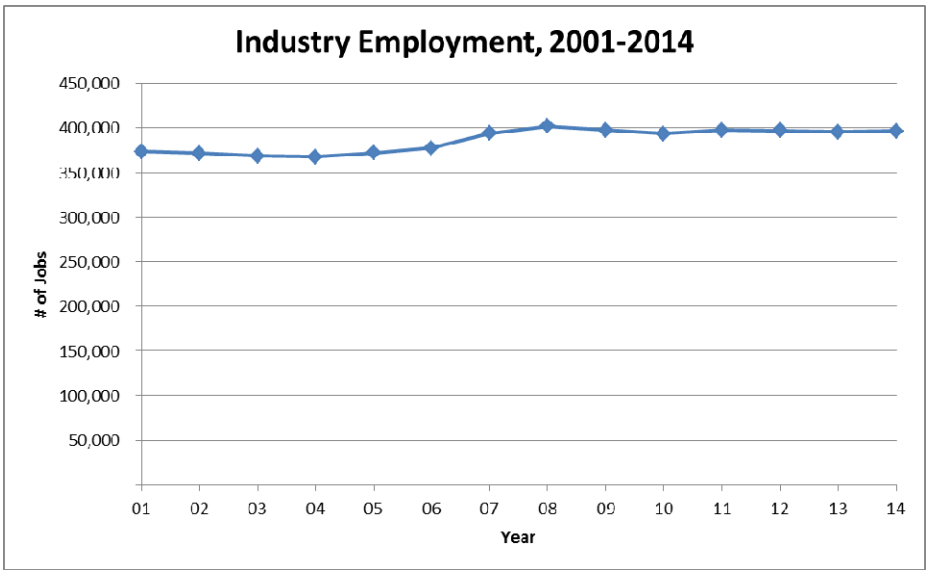
The Affordable Care Act (ACA) of 2010 imposed a 2.3% excise tax on certain medical devices as one of several mechanisms to help fund the new law. The device industry, like other industries, was assessed a tax to help fund a portion of the ACA under the premise that it stood to benefit from millions of newly insured customers. The device tax, which went into effect in January 2013, has been the focus of numerous repeal efforts, fueled by industry claims that the tax could kill as "many as 43,000 jobs." [1]

This paper explores what we know about the impact of the tax on the financial standing of the industry and employment to date. We have found no evidence based on available information that the industry has been disproportionately harmed or has experienced massive layoffs as a result of the medical device tax.[2,3]

Review of Available Data

[1] AdvaMed Press Release. "IRS Final Device Tax Regulations Underscore Urgent Need for Action." December 5, 2012; http://advamed.org/news/8/irs-final-device-tax-regulations-underscore-urgent-need-for-action.
[2] Paul N. Van de Water. "Excise Tax on Medical Devices Should Not Be Repealed." *Center of Budget and Policy Priorities*, February 23, 2015; http://www.cbpp.org/research/health/excise-tax-on-medical-devices-should-not-be-repealed.
[3] Jane G. Gravelle and Sean Lowry. "The Medical Device Excise Tax: Economic Analysis." *Congressional Research Service*, January 2015; http://fas.org/sgp/crs/misc/R43342.pdf.

In order to examine the trend in medical device industry employment, we used the North American Industry Classification System (NAICS) codes to find employment data from the Bureau of Labor Statistics (BLS).[4] There is no standard definition for the "medical device industry." For the purpose of this paper, we defined the industry using eight specific NAICS subcategories.[5,6] We chose to do so because The Lewin Group, in a study prepared for the industry group AdvaMed, used these same codes in their analysis.[7] The non-partisan Congressional Research Service (CRS), a legal and policy analysis organization that provides information to Congress, used seven of these eight codes (leaving out the Dental Laboratories category) in their analysis.[8] We included this category in order to create the most complete picture of medical device employment and the effects of the excise tax. Using these NAICS codes, we looked at data from 2001 through September of 2014, the most recent data available.[9,10]



(See Appendix II for a chart with all employment numbers.)

The employment data indicate that the medical device industry has remained relatively stable over the past fifteen years. Since 2001, there have been cyclical ups and downs, with employment numbers ranging from 404,191 to 364,328, or a difference of 39,873 jobs from the highest to lowest employment points.

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[4] Bureau of Labor Statistics, http://data.bls.gov/cgi-bin/dsrv?en

[5] Surgical and medical instrument manufacturing – 339112; Surgical appliance and supplies manufacturing – 339113; Dental equipment and supplies manufacturing – 339114; Ophthalmic goods manufacturing – 339115; Dental laboratories – 339116; Electromedical and electrotherapeutic apparatus manufacturing -- 334510; *In vitro* diagnostic substance manufacturing – 325413; Irradiation apparatus manufacturing – 334517.

[6] For examples from each category, see Appendix I.

[7] "State Economic Impact of the Medical Technology," *The Lewin Group*, June 2010. http://www.lewin.com/~/media/lewin/site_sections/publications/stateeconomicimpactofthemedicaltechnologyindustry61510.pdf

[8] Jane G. Gravelle and Sean Lowry. "The Medical Device Excise Tax: Economic Analysis." *Congressional Research Service*, January 2015, http://fas.org/sgp/crs/misc/R43342.pdf

[9] We choose to use this time period, 2001 through 2014 (preliminary, partial data through September of 2014), because it aligns with the data that is readily available through the Bureau of Labor Statistics website, http://data.bls.gov/cgi-bin/dsrv?en.

[10] The 2014 data is preliminary and has not been finalized.

The recent fluctuations in medical device employment are under half of 1%.

- Peak employment during this time period was in June of 2008, with 404,191 jobs.
- In September of 2014, the most recent month available, the industry reported 396,199 jobs. [11]
- The largest year-over-year change was the addition of 16,199 jobs in 2007.

While a December 2012 statement from AdvaMed, the trade association for the medical device industry, claimed that "already medical technology companies are laying off workers," there is no compelling evidence of significant job loss in the period directly prior to the implementation of the device tax in January of 2013. The industry experienced two years of job losses of around 5,000 in 2009 and 4,000 in 2010, in the aftermath of the 2008 recession. Jobs increased by over 4,000 in 2011, and decreased by around 600 and 1,200 in 2012 and 2013, respectively. Data from the first three quarters of 2014 show that the industry added close to 1,000 jobs during this period.

While decrease in employment is never good, the fluctuation of job numbers seen in recent years does not suggest the catastrophic losses the industry claims. Instead, the data indicate ebbs and flows that are common in any industry. In 2012 and 2013, the number of jobs decreased .16% and .32%, respectively, and in 2014, the number of jobs increased .23%; these fluxes in employment since the ramp up and implementation of the device tax are all under half of 1%.

In addition to employment data from the Bureau of Labor Statistics, we also looked at data from Ernst and Young industry reports. It is important to remember that there is no standard definition for the medical device industry, making comparisons across different publications difficult. The Ernst and Young analysts looked at financial reports for medical technology companies, defined as "companies that primarily design and manufacture medical technology equipment and supplies." [12] This is likely a broader definition than ours, and includes companies that may not be included in our eight subcategories. Despite using a different dataset, the Ernst and Young data tells the same story: employment has remained steady over the period from 2009 to 2013.

If we look more closely at the first year of implementation of medical device tax, it is clear that claims that the industry as a whole has been harmed are unsubstantiated.

	2009	2010	2011	2012	2013	Difference, '09-'13	% change, '09-'13
Number of employees	456,150	462,730	438,000	435,300	458,800	2,650	0.58

[11] The data from 2014 is only for the first three quarters (January-September) and is not final. It may change before it becomes final in September of 2015.
[12] "Pulse of the Industry: Medical Technology Report." *Ernst and Young*, 2013; http://www.ey.com/Publication/vwLUAssets/Pulse_of_the_industry_%E2%80%93_medical_technology_report_2013_-_Redefining_innovation/$FILE/Pulse_Redefining_medical_technology_innovation.pdf.

Source: "Pulse of the industry: Medical technology report." Ernst and Young, 2010-2014. 13,14,15,

According to this data the industry actually added 23,500 jobs in 2013, hardly indicating an industry harmed by the tax.

Financial Status of Medical Technology Companies

Other financial indicators suggest that the device industry is in good health. According to Ernst and Young market analysts, between 2009 and 2013, American device companies saw increases in important major financial categories.

	2009	2010	2011	2012	2013	Difference, '09-'13	% change, '09-'13
Revenues	196.7	204.9	206.6	210.5	218.5	21.8	11.08
R&D expenses	9.1	9.8	10	10.1	10.7	1.6	17.58
Net income	7.9	12.4	13.7	8.6	11.4	3.5	44.30
Cash*	27.9	33	33.3	39.8	49.8	21.9	78.49

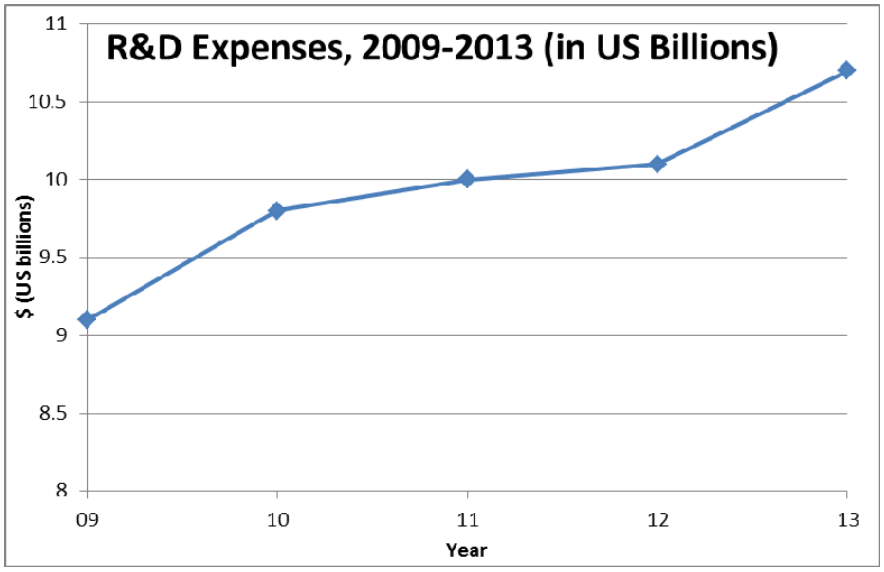
Source: "Pulse of the industry: Medical technology report." Ernst and Young, 2010-2014. 16,17,18

(All $ in US billions)
*Cash includes cash equivalents and short term investments

According to market analysts, the medical device industry actually added 23,500 jobs in 2013, the first year of the device tax.

As the data above demonstrate, every measure of financial health shows growth and improved economic standing from 2009-2013. Cash and R&D expenses have both increased over this time period, demonstrating that the industry's capacity to invest in research and new technology has not been harmed.

[13] "Pulse of the Industry: Medical Technology Report." *Ernst and Young*, 2014; http://www.ey.com/Publication/vwLUAssets/ey-pulse-of-the-industry-report/$FILE/ey-pulse-of-the-industry-report.pdf.
[14] Pulse of the Industry: Medical Technology Report." *Ernst and Young*, 2013; http://www.ey.com/Publication/vwLUAssets/Pulse_of_the_industry_%E2%80%93_medical_technology_report_2013_-_Redefining_innovation/$FILE/Pulse_Redefining_medical_technology_innovation.pdf.
[15] "Pulse of the Industry: Medical Technology Report." *Ernst and Young*, 2011; http://www.ey.com/Publication/vwLUAssets/Pulse:_medical_technology_report_2011/$FILE/Pulse%20medical%20technology%20report%202011.pdf.
[16] Ibid
[17] "Pulse of the Industry: Medical Technology Report." *Ernst and Young*, 2013; http://www.ey.com/Publication/vwLUAssets/Pulse_of_the_industry_%E2%80%93_medical_technology_report_2013_-_Redefining_innovation/$FILE/Pulse_Redefining_medical_technology_innovation.pdf
[18] "Pulse of the Industry: Medical Technology Report." *Ernst and Young*, 2011; http://www.ey.com/Publication/vwLUAssets/Pulse:_medical_technology_report_2011/$FILE/Pulse%20medical%20technology%20report%202011.pdf



The device industry's claim that the medical device tax hurts investment in research and innovation simply does not stand up to a close examination of the numbers.

The Importance of the Maintaining the Medical Device Tax

The ACA includes many important consumer protection provisions that benefit all health insurance consumers. The law ended lifetime and annual limits on benefits, required the coverage of preventive services, extended dependent coverage up to the age of 26, capped insurance companies' non-medical administrative spending, guaranteed coverage for people with preexisting conditions, and provided tax credits to help make coverage more affordable. [19] This expanded and improved coverage is paid for through a variety of revenue raisers that were written into the law.

Health care providers stood to benefit from millions of newly insured consumers due to the expansion of insurance coverage through the ACA. Many industries made concessions in exchange for the millions of newly insured consumers who would be able to buy their products and services. [20] The insurance industry accepted an annual fee on health insurance providers and a 40% excise tax on high cost plans with very generous benefits. [21] The law also includes an annual fee on manufacturers and importers of branded drugs and a 10% excise tax on the use of indoor tanning services along with the 2.3% excise tax on medical devices.[22]

Cash and R&D expenses have both increased over this time period, demonstrating that the industry's capacity to invest in research and new technology has not been harmed.

It is important to note two things. First and foremost, the majority of financial support for these expanded consumer protections comes from individuals, not

[19] Janemarie Mulvey. "Health-Related Revenue Provisions in the Patient Protection and Affordable Care Act (ACA)," *Congressional Research Service*, January 18, 2012; https://blueingreene.files.wordpress.com/2012/04/r41128.pdf
[20] For a full list of the revenue raisers in the ACA, please see p.2 of "Health-Related Revenue Provisions in the Patient Protection and Affordable Care Act (ACA)," *Congressional Research Service*, January 18, 2012; https://blueingreene.files.wordpress.com/2012/04/r41128.pdf
[21] Ibid
[22] Ibid

from industry or private business.[23] Second, the excise tax on medical devices is in line with the fees other stakeholders are paying. The medical device industry, like the insurance and pharmaceutical industries, is expected to gain millions of new, paying customers who are able to afford these devices because of their new and/or improved insurance coverage.

Consumers Union Recommendations

Consumers Union recommends that the device tax be kept in place. Our findings are in line with projections from the non-partisan Congressional Research Service (CRS), which concluded that the device tax would have a negligible impact on jobs. CRS estimated that industry employment would fall by "no more than two-tenths of 1%." [24]

The CRS analysis found that the tax would not affect the profits of medical device companies, as most of the tax will be passed onto consumers through prices, which is consistent with Consumers Union's prior analysis. [25,26,27] CRS also found that the tax's effect on the price of health care would be negligible because of "the small size of the tax and the small share of health care spending attributable to medical devices." [28] Medical device firms that are subject to income tax may also deduct the excise tax as an ordinary cost of business. This effectively reduces the tax from 2.3% to 1.4% for profitable firms.[29] Furthermore, as the tax applies to American-made devices and imports alike, it will not cause American jobs to be moved abroad.

Repealing the device tax would be unfair to taxpayers and to other stakeholders who fund the law and would undermine the principle of broad stakeholder contribution that underlies the financing of the law. The tax should be kept in place.

Victoria Burack and Lisa Swirsky prepared this report. DeAnn Friedholm provided significant assistance and review. We would like to thank Paul N. Van de Water from the Center on Budget and Policy Priorities for his thoughtful review.

[23] Ibid
[24] Jane G. Gravelle and Sean Lowry. "The Medical Device Excise Tax: Economic Analysis." Congressional Research Service, January 2015; http://fas.org/sgp/crs/misc/R43342.pdf.
[25] Lisa Swirsky. "Medical Device Manufacturer Profits," *Consumers Union*, September 2013; http://consumersunion.org/wp-content/uploads/2013/10/Medical_Device_Report.pdf
[26] Jane G. Gravelle and Sean Lowry. "The Medical Device Excise Tax: Economic Analysis." *Congressional Research Service*, January, 2015.; http://fas.org/sgp/crs/misc/R43342.pdf.
[27] Ibid
[28] Ibid
[29] Ibid

Appendix I – Medical Device Industry subsectors and NAICS codes

NAICS code	Subsector	Examples
325413	*In vitro* diagnostic substance manufacturing	In vitro (not taken internally) substances such as chemical, biological, or radioactive substances
334510	Electromedical and electrotherapeutic apparatus manufacturing	Magnetic resonance imaging equipment, ultrasound equipment, pacemakers, hearing aids, electrocardiographs, electromedical endoscopic equipment
334517	Irradiation apparatus manufacturing	Irradiation apparatus and tubes for applications, such as medical diagnostic, medical therapeutic, industrial, research, and scientific evaluation
339112	Surgical and medical instrument manufacturing	Syringes, hypodermic needles, anesthesia apparatus, blood transfusion equipment, catheters, surgical clamps, thermometers
339113	Surgical appliance and supplies manufacturing	Orthopedic devices, prosthetic appliances, surgical dressings, crutches, sutures, hospital beds, operating tables, personal industrial safety devices (excluding protecting eyewear)
339114	Dental equipment and supplies manufacturing	Dental Chairs, dental instrument delivery systems, dental hand instruments, dental impression material, dental cements
339115	Ophthalmic goods manufacturing	Prescription glasses, contact lenses, sunglasses, eyeglass frames, reading glasses made to standard powers, protective eyewear
339116	Dental laboratories	Dentures, crowns, bridges, orthodontic appliances

Source: *State Economic Impact of the Medical Technology Industry*. The Lewin Group. [30,31]

[30] *State Economic Impact of the Medical Technology Industry*. The Lewin Group. June 7, 2010, http://www.lewin.com/publications/publication/410/

[31] The medical device tax excludes devices that the public buys directly at retail for individual use. This includes contact lenses, hearing aids, eyeglasses. *Medical Device Excise Tax: Frequently Asked Questions*, IRS, http://www.irs.gov/uac/Medical-Device-Excise-Tax:-Frequently-Asked-Questions

Appendix II – Medical Device Industry Employment, 2001-2014

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual Average
2001	372,427	373,995	374,175	374,153	373,683	376,501	374,567	374,897	373,431	372,481	371,966	373,069	373,779
2002	371,811	372,637	373,476	372,280	372,342	373,331	371,984	371,220	369,655	369,812	369,820	370,099	371,539
2003	367,443	368,364	369,433	369,949	370,127	371,570	369,902	369,718	367,729	366,202	365,721	367,156	368,610
2004	364,318	365,126	366,255	366,489	367,481	369,173	370,236	370,184	368,495	367,763	368,349	370,333	367,850
2005	368,793	369,865	370,449	370,149	371,032	373,567	373,967	374,784	372,673	372,252	373,033	375,472	372,170
2006	373,402	374,413	375,252	376,148	377,931	380,252	379,706	380,068	378,922	378,188	378,273	380,634	377,766
2007	390,115	391,101	392,690	392,180	392,820	395,446	395,134	394,997	393,785	395,296	395,757	398,250	393,964
2008	400,392	400,642	401,679	402,247	402,876	404,191	404,018	403,817	402,475	401,959	401,091	401,091	402,207
2009	403,327	402,214	401,760	400,331	399,046	400,013	397,312	395,673	392,950	392,290	392,085	392,581	397,465
2010	391,518	391,761	392,223	392,751	393,905	395,907	396,092	395,548	393,084	393,104	392,890	394,187	393,581
2011	395,819	395,942	396,262	396,993	397,927	400,018	400,798	400,087	398,015	396,771	396,545	397,333	397,709
2012	396,905	396,978	397,317	395,883	396,599	399,532	399,279	397,892	395,642	395,839	396,146	396,912	397,077
2013	395,201	395,294	395,903	395,260	395,455	398,183	398,069	397,212	395,272	393,923	394,351	395,522	395,804
2014	395,304	395,931	396,576	395,166	396,086	398,360	398,761	398,210	396,199				396,733

[32,33]

[32] This data was downloaded from the Bureau of Labor Statistics, http://data.bls.gov/cgi-bin/dsrv?en, using the NAICS codes listed in the chart in Appendix I.
[33] The data from 2014 is only for the first three quarters of the year (January-September) and is not finalized.

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WWW.CONSUMERSUNION.ORG

HEADQUARTERS
101 Truman Avenue
Yonkers, NY 10703
Phone: (914) 378-2000

SOUTHWEST OFFICE
7020 Easy Wind Drive, Suite 250
Austin, TX 78752
Phone: (512) 477-4431

WASHINGTON DC OFFICE
1101 17th Street NW, Suite 500
Washington, DC 20036
Phone: (202) 462-6262

WEST COAST OFFICE
1535 Mission Street
San Francisco, CA 94103
Phone: (415) 431-6747