

GOP plays offense in medical device tax fight

ALAN FRAM - Associated Press - Associated Press

For Republicans, it's an irresistible trifecta: A bill that gives them an election-season chance to say they're fighting to protect jobs and cut taxes, even as it erodes financing for President Barack Obama's health care overhaul they despise.

So though it is destined to die in the Democratic-run Senate, GOP leaders plan to push legislation through the House this week to repeal an excise tax on the makers of medical devices sold in the U.S. sales.

Democrats say the growing medical device industry can afford the 2.3 percent tax due to take effect next January. They describe the tax as part of the price device manufacturers and other providers agreed to pay in exchange for the tens of millions of new customers they will get through the sweeping 2010 health care law's expansion of health insurance coverage.

That's not the view of Republicans or the medical device industry, which has lobbied Congress heavily to kill the tax before it takes hold. GOP lawmakers have named their legislation the Protect Medical Innovation Act, and insist it is not aimed at dismantling Obama's health care law.

"That's not part of my agenda," said chief sponsor Rep. Erik Paulsen, R-Minn., whose state is one of the centers of the nation's \$130 billion-a-year medical device industry. He said the tax would eat up dollars that otherwise might go toward research and development — and jobs.

The tax applies to items ranging from replacement joints to imaging equipment like CT scans. Exempted would be consumer products like eyeglasses, hearing aids and bandages.

Repealing the tax would cost the government an estimated \$29 billion over the coming decade — a small fraction of the health care law's cost. Republicans have not said how they will pay for it but say they will in time for House debate.

The House vote will occur as the Supreme Court prepares to rule later this month on the constitutionality of the health care law.

Democrats also hope to play some offense in the House debate.

Rep. Sander Levin, D-Mich., said he will argue that Republicans are trying to unravel the health care overhaul instead of working on legislation to strengthen the economy, such as tax incentives proposed by Obama.

Republicans think taking no action on the economy "helps defeat the president" in November's election, Levin said. "They think it's good politics, but it's irresponsible."

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For good measure, Democrats say the measure has no chance in the Senate.

"Of course we're not going to bring it up," said Adam Jentleson, spokesman for Senate Majority Leader Harry Reid, D-Nev., citing Democrats' desire to defend the health care law.

But the dividing line is not completely partisan. Eleven of Paulsen's 238 co-sponsors are Democrats from medical technology centers like Massachusetts, Pennsylvania and Utah. Minnesota's two Democratic senators, Al Franken and Amy Klobuchar, say they favor eliminating the tax as has Democrat Elizabeth Warren, who is challenging GOP Sen. Scott Brown in Massachusetts.

Brown and Sen. Orrin Hatch, R-Utah, have introduced similar bills.

U.S. medical device makers employ more than 400,000 people. The industry's largest trade group, AdvaMed, cites a study it commissioned that concluded the new tax could cost 43,000 of those jobs — about 10 percent — while doubling companies' tax bills and encouraging them to move plants overseas. The findings are often quoted by Republicans.

Critics say the study is biased and ignores the extra customers the industry will get as the health care law phases in. They also say the law won't force companies to move jobs overseas since it applies to all U.S. sales, no matter where the product is made.

"It doesn't make any sense," Robert Town, professor of health care management at the University of Pennsylvania's Wharton School, said of such claims. He and other analysts said they believe the overall industry impact of the tax would be modest.

Though the industry is dominated by huge companies like Medtronic of Minneapolis and Boston Scientific of Natick, Mass., AdvaMed says most of its 300 members have 30 or fewer workers. The Medical Device Manufacturers Association, representing many small and medium-size companies, cites similar figures.

Industry officials say young companies could be especially hurt because the tax is levied on total sales, not profits. If a business sells \$100 million worth of products and a \$4 million profit, the \$2.3 million it would owe would erode more than half its earnings — excluding federal and state corporate taxes.

"It's going to cost jobs in our industry," said AdvaMed lobbyist J.C. Scott. For companies breaking even, he said, the tax "can push them to a place where they just can't move their business forward."

Company executives said their industry was too competitive to pass their added costs to customers. Town and other analysts said they believed that eventually, as with most excise taxes, those costs would be built into manufacturers' prices.

Kem Hawkins, president of stent maker Cook Medical of Bloomington, Ind., said a

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2.3 percent tax would cost his company around \$20 million, erasing 15 percent of earnings.

Combined with federal and state taxes, he said he'd be paying a tax rate of 58 percent. Opening a new plant employing 300 workers can cost \$13 million, he said.

"It's the tipping point," he said of the excise tax. While he said he would protect the company's 7,500 U.S. jobs, he added, "Our new manufacturing is going abroad, make no mistake about it."

Gregory Sorensen, CEO of Siemens Healthcare North America, a giant maker of scanning devices, said the tax would force him to consider savings from reduced investments or U.S. jobs. He said his company has about \$2 billion in annual sales and \$500 million in profits in the U.S. — meaning the tax could cost Siemens about \$46 million a year.

"The money has to come from somewhere," he said.

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Associated Press writer Ricardo Alonso-Zaldivar contributed to this report.

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