

Congress of the United States
Washington, DC 20515

March 28, 2011

Douglas H. Shulman, Commissioner
Internal Revenue Service
CC:PA:LPD:PR (Notice 2010-89)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Dear Commissioner Shulman,

Pursuant to Notice 2010-89, we're writing in response to the comments you have requested on the subject of the medical device tax.

The American medical device industry is an engine of innovation and growth in the health care field. The industry directly employs nearly half a million individuals and routinely revolutionizes patient care.

The planned \$20 billion excise tax on medical device manufacturers will lead to higher prices for devices and increased health care premiums. We also believe the tax will force medical device companies to reduce US employment and research and development expenditures. The new tax unfairly penalizes entrepreneurship and innovation in an industry that makes up 2.7 percent of our nation's GDP.

Given the complexities and diversity of the medical device industry – from adhesive wound bandages to implantable defibrillators and heart valves – we are concerned about the various complex issues that will need to be addressed by the Department of Treasury, and particularly by the Internal Revenue Service. Several terms and concepts in the law are not clearly defined and will require IRS interpretation. Yet, IRS resources already are stretched thin and medical expertise is outside the scope of the IRS's core mission.

Specifically, we are concerned about how you plan to prevent multiple taxation, as well as interpret the exemption language in the new law. We are also concerned about how new guidance will relate to regulatory determinations from other agencies with which the heavily-regulated medical device industry is already familiar and must comply.

Additionally, because device manufacture and supply chains are often long, complicated, and varied, we are concerned about how you will define which products are subject to the tax, the

price upon which the tax will be determined, the time at which the tax is assessed, and which manufacturer will be responsible for paying the tax.

We encourage you to look toward established industry sources to better understand the practicalities of the medical device market. As you work through this process, we need to learn more about your approach to these issues to insure that the regulations do not exacerbate the impact on jobs and competitiveness resulting from the excise tax on medical devices.

Sincerely,



Erik Paulsen
Member of Congress



John Kline
Member of Congress



Chip Cravack
Member of Congress



Michele Bachmann
Member of Congress