

**From:** e-Dear Colleague  
**Sent:** Wednesday, December 16, 2009 2:20 PM  
**To:** [E-DEARCOLL\\_ISSUES\\_G-Z\\_0000@ls2.house.gov](mailto:E-DEARCOLL_ISSUES_G-Z_0000@ls2.house.gov)  
**Subject:** HealthCare, Taxes: Dear Colleague: Support the Senate's Exemption of Class I Medical Devices in Health Reform

## **Support the Senate's Exemption of Class I Medical Devices in Health Reform**

**From:** The Honorable Carolyn McCarthy  
**Sent By:** [michael.grogan@mail.house.gov](mailto:michael.grogan@mail.house.gov)  
**Date:** 12/16/2009

### **Prevent a Tax on Band-Aids and other Basic Medical Products in Health Reform**

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Support the Senate's Exemption of Class I Medical Devices  
from the Tax on Medical Device Manufacturers

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December 16, 2009

Deadline: Close of Business, Friday, December 18, 2009

Dear Colleague:

As a part of the health reform effort, the Congress is considering a tax or fee on medical device manufacturers.

The language being considered in the Senate would exempt Class I medical devices and Class II devices that retail for less than \$100 from the fee on device manufactures. H.R. 3962, as passed by the House, does not include an exemption by class as the Senate bill does, but instead includes an exemption only for items sold through retail. I am concerned that the structure of the device tax in the House could result in increased costs to our providers and patients.

Class I devices represent basic products that physicians and patients rely on every day, including tongue depressors, bandages, examination gloves, cotton swabs, and hearing aids. Many Class I devices have very low profit margins, many with profit margins less than 1%. If the proposed fee or tax is greater than this profit margin, I am concerned that the tax on these items would be passed on directly to providers and patients, and, as a result, negatively affect the quality of care that patients receive.

For example, if the tax were imposed on hearing aids, it would likely be passed on to patients directly and could have a significantly negative impact on patient care quality. The majority of hearing aid sales (72%) are not paid for by insurance, but are paid for by individuals as an out-

of-pocket expense. Any tax on hearing aides will drive up costs to these patients, regardless of whether they had medical insurance under previous plans or new plans created by the legislation.

I ask that you join this letter to Speaker Pelosi in support of the Class I exemption that would prevent the tax from being applied to the patients and providers that rely class I devices for critical patient care needs.

Sincerely,

/S  
Carolyn McCarthy  
Member of Congress

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The Honorable Nancy Pelosi  
Speaker of the House of Representatives  
H-232, United States Capitol  
Washington, DC 20515

Dear Speaker Pelosi:

As the Congress prepares to vote on a final health care reform bill, we respectfully request that the exemption of Class I medical devices from the proposed fee on device manufacturers be included in the final legislation.

The language currently being considered in the Senate would exempt Class I devices and Class II devices that retail for less than \$100 from the fee on device manufacturers. H.R. 3962, passed by the House on November 7, 2009, does not include an exemption by class, but instead includes an exemption only for items sold through retail.

It is important to make the structure of the tax clear and definitive. It is especially important that the language for determining exemptions from the \$20 billion medical device tax is as straightforward as possible. An exemption, such as the language currently being considered by the Senate, an exemption based on FDA classifications, would help to prevent the imposition of this tax on devices, such as hearing aids that are sold to consumers through channels that are not easily categorized in "retail" terms, and which are generally not covered by insurance. It would also avoid applying the tax on other basic medical devices.

Class I devices represent basic products that physicians and patients rely on every day, including tongue depressors, bandages, examination gloves, cotton swabs, and hearing aids. Many Class I devices have very low profit margins, many with profit margins less than 1%. If the proposed fee or tax is greater than this profit margin, we are concerned that the tax on these items would be passed on directly to providers and patients, and, as a result, negatively affect the quality of care that patients receive.

Hearing aids provide a good example. The majority of hearing aid sales, approximately 72%, are not paid for by insurance, but instead are paid for by individuals as an out-of-pocket expense. A tax on Class I devices will directly increase the cost of hearing aids and drive up the cost for the individuals who purchase them, regardless of whether they had medical insurance under existing insurance plans or new plans created by the legislation. This burden is likely to reduce access to hearing aids for Americans with hearing loss

If the Congress decides to include a tax on medical device manufacturers, we should exempt items by classification, such as hearing aids that are sold to consumers through channels that are not easily categorized in “retail” terms, and items such as cotton swabs, tongue depressors and wound care dressings when the costs of such a tax would be passed on to our hospitals doctors and patients. Given the current economic climate, it is simply inappropriate to increase the price of such basic medical items as bandages and hearing aids for our constituents. Therefore, we urge you to include an exemption of Class I medical devices in any tax or fee on medical device manufactures included in the final legislation. This is the most straightforward way to protect our constituents from price hikes to important, basic medical products.

Sincerely,