

March 07, 2013

From: HCMC Supply Chain Management & Finance

To: All Medical Device Suppliers Re: Medical Device Excise Tax

701 Park Avenue Minneapolis, Minnesota 55415-1829

Tel: 612-873-3000 www.hcmc.org

Hennepin County Medical Center (HCMC) is experiencing medical device suppliers' attempts to shift the Medical Device Excise Tax (MDET) financial obligation to us and other healthcare providers. According to Healthcare Supply Chain Association, hospitals have already committed \$155 billion over the next 10 years to help fund the Affordable Care Act, and the organization joined the Federation of American Hospitals, the American Hospital Association, the Catholic Health Association of the United States, and the Association for Healthcare Resources & Materials Management in including this information in a comment letter to the Internal Revenue Service last year.

The language from the Internal Revenue Code Sec. 4191 clearly directs the 2.3 percent tax to be imposed upon a "medical device by the manufacturer, produce, or importer." *See* Title 26 IRC Sec. 4191. This language does not direct the tax to be imposed upon hospitals or healthcare providers; otherwise Congress would have chosen language that indicated such. Further demonstrating Congress's intent for this tax to be applied to entities other than hospitals and healthcare providers, the IRS provides clarification through its discussion of the tax. When asked, "Who is responsible for reporting and paying the medical device excise tax?" the IRS responded by stating that,"…the manufacturer or importer of a taxable medical device is responsible for … paying the tax to the IRS."

We have begun to receive invoices and billing notices shortly after the beginning of 2013 which state that the manufacturer has added a specific line item explicitly referencing the medical device excise tax.

As a safety-net hospital, Hennepin County Medical Center has already lived up to the shared financial responsibility for state and national healthcare reform, and now we are facing mounting budgetary strain as we continue to deliver affordable and effective patient care with fewer dollars. It is unacceptable to find that some medical device companies have chosen to "pass-along" the MDET onto their invoices. Along with many local hospitals, our Group Purchasing Organization, Association of Healthcare Resource & Materials Management, and other colleagues across the county, HCMC will not participate in trading with suppliers which clearly include surcharges meant to shift the tax burden to us, nor will we pay the MDET if it appears on any invoice.

Sincerely,

Yogi Ohneswere

Senior Manager, Strategic Procurement

Supply Chain Management

Richard Millerbernd Finance Manager,

Finance Operational Support

<sup>&</sup>lt;sup>1</sup> http://www.irs.gov/uac/Medical-Device-Excise-Tax:-Frequently-Asked-Questions