

Tax "Reform" Package Would Tax "Elective Cosmetic Medical Procedures"

Despite being advised by the Senate Chair of the Taxation Committee that the Committee's session-long discussion about so-called "tax reform" would not lead to an extension of the sales tax to cosmetic surgery, the MMA and specialty physician organizations must gear up to fight this sales tax extension. Late Wednesday night, the Taxation Committee voted 11-2 to recommend passage of a package of statutory changes & proposed constitutional amendments being billed as "tax reform." Because of the extension of the sales tax to cosmetic surgery, the lack of public input in the development of the package which has had no public hearing, and our concern that the package really is a tax "shift" that does little to control state spending, the Maine Medical Association has joined most other business groups in the state to oppose the entire proposal. The full legislature will take up the proposal some time between Monday, June 11th & the projected adjournment date of Wednesday, June 20th. IT IS CRITICAL THAT PHYSICIANS CONTACT THEIR OWN LEGISLATORS & GOVERNOR BALDACCI TO URGE THEM TO REJECT THIS PROPOSAL & SEND THE TAXATION COMMITTEE BACK TO THE DRAWING BOARD TO DEVELOP A "REAL" TAX REFORM PACKAGE IN AN OPEN, PUBLIC PROCESS!

The so-called "tax reform package" has no legislative document or L.D. number yet, but is expected to come forward as 2 L.D.s, one with the constitutional provisions that will appear first in the Senate & another containing the statutory provisions that will appear first in the House.

The statutory changes will include an extension of the sales tax to "elective cosmetic medical procedures," defined as:

2-D. Elective cosmetic medical procedure. "Elective cosmetic medical procedure" means any medical procedure on an individual that is directed at improving the individual's appearance and that does not meaningfully promote the proper function of the body or prevent or treat illness or disease. "Elective cosmetic medical procedure" includes but is not limited to cosmetic surgery, hair transplants, cosmetic injections, cosmetic soft tissue fillers, dermabrasion, and chemical peel, laser hair removal, laser skin resurfacing, laser treatment of leg veins, sclerotherapy, and cosmetic dentistry. "Elective cosmetic medical procedure" does not include reconstructive surgery or dentistry. "Cosmetic surgery" means the surgical reshaping of normal structures of the body to improve the body image, self-esteem or appearance of an individual. "Reconstructive surgery or dentistry" includes any surgery or dentistry performed on abnormal structures caused by or related to congenital defects, developmental abnormalities, trauma, infection, tumors or disease, including procedures to improve function or give a more normal appearance.

The following are talking points provided by the American Society of Plastic Surgeons:

Cosmetic Surgery and other Physician Taxes:

Talking Points

- **The tax on plastic surgery and cosmetic procedures places additional strains on physicians who provide charity care to the state's citizens including critical trauma and reconstructive care.** Physicians offering cosmetic medical procedures rely on this revenue to perform reconstructive work on uninsured and underinsured patients.
 - For example, 90% of plastic surgeons perform both cosmetic and reconstructive surgery in their practices.
 - Plastic surgeons and otolaryngologists (ear, nose and throat surgeons) routinely perform a variety of life-changing reconstructive surgery beyond elective cosmetic surgery. Procedures include facial reconstruction, breast reconstruction following cancer, cleft lip and palate repair, and burn and hand surgery following trauma and work-related accidents.

The cosmetic surgery tax discriminates against women. Moreover, contrary to popular belief, cosmetic surgery is no longer an exclusive luxury afforded by the very wealthy. In fact, 86 % of cosmetic surgery patients are working women between the ages of 35 and 50 with an average income of \$55,000 per year.

Patients may understandably choose neighboring states for untaxed procedures, leaving the state's health care system to shoulder the loss. In many states, physicians have left under the weight of increased practice costs, skyrocketing medical liability premiums, and decreasing reimbursement. Decreasing patient volume will only force physicians to leave the state or close their practices, taking revenue, job opportunities, and their charitable care out of the state.

There are legitimate concerns regarding medically necessary covered services and patients' privacy. State Tax Departments are in the business of collecting money, not determining medical necessity or ancillary services, or protecting patient confidentiality. It is unclear how state agencies will put safeguards into place when handling sensitive patient information. The State Tax Department will be forced to make recurring determinations about cosmetic and reconstructive care, related preoperative work, and the many other gray areas of implementation given the complexities of medical practice.

The administrative burden to determine application of this tax will be enormous. There will be challenges to the tax on thousands of medical procedures which will adversely impact consumers, medical professionals, and the state. This can be a potential auditing nightmare for physicians and the state; implementation of this subjectively imposed tax will require an inordinate amount of time to interpret and administer with questionable return.

The only state that has enacted a tax on cosmetic surgery is New Jersey and the concerns described above have become reality in the state.

CALL TO ACTION!

Members of the Taxation Committee, found here http://janus.state.me.us/house/jt_com/tax.htm, have taken their positions on the package, but you can communicate your opposition to your own legislators by contacting them **at home over this weekend!** Find your Senator & House member & their home contact information on the web here: <http://janus.state.me.us/house/townlist.htm>.

On Monday, you can leave a message at the State House for your **Senator** by calling **1-800-423-6900** & for your **House member** by calling **1-800-423-2900**.

Governor Baldacci has taken no position on this package & apparently has concerns with it. You can contact him as follows:

The Honorable John E. Baldacci

Office of the Governor

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Augusta, Maine 04333-0001

207-287-3531

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On Thursday, June 7th, the Maine Center for Economic Policy, AARP Maine, & Maine Women's Lobby held a State House press conference announcing their support for the package. Some of your legislators will try to persuade you that this package will be good for you. The following are some talking points about the entire package to help you respond to these arguments.

- This "tax reform package" does nothing more than shift the tax burden from some taxpayers to others. It increases some taxes to reduce others. It will do nothing to reduce Maine's overall tax burden. It will do nothing to restrict future increases in *state spending* which is, after all, the driving force in the tax burden.
- The package promises almost \$250 million in income tax & property tax relief. On the income tax side, it creates a flat 6% tax but *eliminates all itemized deductions and exemptions*. In their place, the legislation creates a variety of credits designed to partially compensate for the lost deductions and credits. And while their modeling suggests that most taxpayers will see a reduction in taxes, Maine Revenue Services acknowledges that nearly 30,000 families will actually experience a significant income tax increase, particularly those who now claim high itemized deductions. On the property tax side, it proposes to increase the current homestead exemption from \$13,000 to \$26,000. This will shift tens of millions of the property tax burden from residential to business property owners.
- Unfortunately, that tax shift will be only a small portion of the heavy price business will pay to finance this so-called "relief" package - there also will be a corporate tax increase for small businesses, a dramatic increase in the real estate transfer tax, and nearly \$200 million in expansions of the sales tax.
- **New sales taxes.** In addition to the cosmetic surgery tax, the package will impose sales tax upon hundreds of services, including personal property leases, amusements (movies, ski tickets, exhibitions, shows), installation, maintenance & repair services, personal care services (haircuts), personal property services (janitorial, moving), and real property services (electrical, plumbing, landscaping, waste removal, etc.).
- The package proposes **3 constitutional amendments**. One would ask voters to pass a constitutional amendment requiring a 2/3 vote of the legislature **to raise or lower tax rates** (but not the broadening of existing taxes). Another would ask voters to pass a constitutional amendment allowing cities & towns to opt out of that portion of the homestead exemption that the state does not pay for. The last would ask voters to pass a constitutional amendment allowing cities & towns to adopt a local-option sales tax with the approval of local voters, to raise money that would be used to reduce property taxes.

If you have questions about the MMA's advocacy efforts in this matter, or if you have received this by fax & need help finding contact information for your legislators, please contact Gordon Smith, EVP, at gsmith@mainemed.com or 622-3374, ext. 212, or Andrew MacLean, Deputy EVP, at amaclean@mainemed.com or 622-3374, ext. 214.