

Cosmetic Medical Procedures Tax: National Failures

States throughout the nation have hastily introduced legislation to tax cosmetic medical procedures without studying the negative impact on state budgets and the health care community.

The following 10 states have introduced legislation to tax cosmetic medical procedures.

States currently taxing cosmetic medical procedures:

New Jersey: New Jersey is the first and only state currently taxing cosmetic surgery, passing legislation in the state's 2004 Legislative Session. The tax was initially justified to voters as a \$24 million annual revenue source for charity care in state hospitals. But, as many predicted, the revenue fell woefully short. In fact, it yielded only \$7.8 million in its first year, a mere fraction of the initial projections. This tax was part of the state's budget process and was introduced late in the 2004 legislative session. The tax is levied on any procedure "directed at improving the [patient's] appearance, and which does not meaningfully promote the proper function of the body or prevent or treat illness or disease." Reconstructive surgery and dentistry are not included. Since this is a "gross receipts tax" it covers all fees paid for services, including anesthesiology, radiology, and laboratory work. Each provider who bills for such services must bill and collect the tax from the patient. Each provider must report and pay the tax quarterly.

States currently considering taxes on cosmetic medical procedures:

Connecticut: As part of a larger health care package, Connecticut lawmakers have introduced a cosmetic surgery tax this legislative session. The authors of the plan project that the tax will generate \$40 million annually. The plan also calls for a 3-percent tax on health care providers.

Hawaii: A bill has been introduced in Hawaii (HB 175) that exempts all medical services from general excise taxes, with the exception of cosmetic surgery and plastic surgery. The state of Hawaii does not have a sales tax. Instead, they have a general excise tax which is assessed at a rate of 4% on all business activities, including retail sales, commissions, rental income, and services. Another bill (HB 231) exempts medical services from a county surcharge on the state tax rate, but excludes cosmetic surgery, and other elective medical procedures.

Minnesota: A bill has been introduced in Minnesota (HB 1027) that taxes cosmetic medical procedures at the state's sales tax rate of 6.5%. The tax would be assessed on top of the existing 2% gross revenue tax on health care services in the state. Those procedures that "improve appearance, body image, or self-esteem and do not meaningfully promote the proper function of the body or prevent or treat illness or disease" are subjected to the tax. This includes: cosmetic surgery, hair transplants, cosmetic injections, cosmetic soft tissue fillers, dermabrasion and chemical peels, laser hair removal, laser skin resurfacing, laser treatment of leg veins, sclerotherapy, and cosmetic dentistry.

States that considered taxing medical procedures but decided that the tax was bad public and healthcare policy:

Arkansas: In Arkansas, legislation imposing a 6 percent tax on "medically unnecessary medical procedures" was included with a measure to increase a sales and use tax exemption on the purchase of a used vehicle. The bill failed to pass out of the House Committee on Revenue and Taxation in the 2005 Spring Legislative Session.

Illinois: Illinois introduced a bill during the 2005 Spring Legislative Session that would have taxed elective cosmetic procedures at 6 percent to fund a state-sponsored stem cell research program. The bill included a \$1 billion general obligation bond issue to be voted on by public referendum in November of 2006, with general obligation bonds issued over 10 years. The bill was never brought to vote due to lack of support.

New York: The New York State Assembly introduced a resolution that would have taxed cosmetic medical procedures up to 9.25 percent in the recent 2005 Spring Legislative Session. The measure failed when the State Senate and the Governor opted not to include the tax in the final budget agreement.

Tennessee: The Tennessee State Senate introduced legislation levying a 7 percent tax on cosmetic surgery and Botox® injections. The bill failed to pass out of Senate Finance Ways and Means Committee during the 2005 Spring Legislative Session.

Texas: Texas Governor Rick Perry proposed a tax on elective cosmetic surgery as part of an education funding reform bill in a 2005 Special Legislative Session. The Texas House of Representatives and Texas Senate passed a version of the education funding reform bill, but opted not to include the tax.

Washington: The Washington State Senate proposed a 6.5 percent tax on elective cosmetic services during the 2005 Spring Legislative Session. The bill would have taxed procedures such as nose reshaping, tummy tucks, teeth whitening, dermabrasion, face lifts, liposuction, Botox® injections and other treatments, and was intended to help pay for children's health care costs. The tax was not included in the state's final budget due to lack of support.