

INVACARE CORP
Form 8-K
January 08, 2010

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 8-K
CURRENT REPORT
Pursuant to Section 13 OR 15(d) of
the Securities Exchange Act of 1934
Date of Report (Date of earliest event reported) January 7, 2010
INVACARE CORPORATION**

(Exact name of registrant as specified in its charter)

Ohio

1-15103

95-2680965

(State or other jurisdiction
of incorporation)

(Commission
File Number)

(IRS Employer
Identification No.)

One Invacare Way, P.O. Box 4028, Elyria, Ohio

44036

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code: (440) 329-6000

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 7.01. Regulation FD Disclosure.

The U.S. Senate and the U.S. House of Representatives each recently passed health care reform legislation that includes a new tax on medical device manufacturers, such as Invacare Corporation (the Company). The Senate version of health care reform would impose a yearly sales-based tax on medical device manufacturers intended to raise \$2 billion in tax revenue annually beginning in 2011, and \$3 billion in annual tax revenue beginning in 2017. The tax would be not be deductible by the manufacturer and the amount of tax payable by a manufacturer would be determined based on market-share.

While this legislation has not yet been finalized, if the Senate version of the proposed medical device manufacturer tax becomes law, the Company will have to begin accruing expense for the new tax in 2010. Based on the Company's interpretation of the Senate proposal, the Company estimates that the new tax could result in an impact to the Company of approximately \$12 million to \$14 million annually.

The Company continues to actively lobby members of Congress in an effort to make the proposed legislation less onerous on medical device manufacturers, and, until the legislation is finalized, there can be no assurance that the tax may not be eliminated, modified or delayed. However, the Company is evaluating all of its available options to offset the impact of the proposed tax on the Company's financial results, including possible price increases or cost-reduction actions such as shifting more production overseas, reducing employee benefits or research and development expenditures. In anticipation of the proposed tax becoming law, the Company has already taken steps to suspend Company matching contributions under its 401(k) retirement plan, suspend merit pay increases for management employees and freeze new hiring.

In accordance with its historical practice, the Company intends to disseminate its guidance for 2010 performance in its fourth quarter earnings release, which is scheduled to be issued on or around February 4, 2010.

This Form 8-K contains forward-looking statements within the meaning of the Safe Harbor provisions of the Private Securities Litigation Reform Act of 1995. Terms such as will, should, could, plan, intend, expect, continue, forecast, believe, anticipate and seek, as well as similar comments, are forward-looking in nature. Actual results and events may differ significantly from those expressed or anticipated as a result of risks and uncertainties which include, but are not limited to, the following: possible adverse effects of being substantially leveraged, which could impact our ability to raise capital, limit our ability to react to changes in the economy or our industry or expose us to interest rate or event of default risks; adverse changes in government and other third-party payor reimbursement levels and practices, including any health care reform legislation that may be enacted (such as, for example, recently proposed health care reform legislation contemplating a tax on medical device manufacturers that, if adopted, could have an adverse impact on the Company); consolidation of health care providers and our competitors; loss of key health care providers; ineffective cost reduction and restructuring efforts; inability to design, manufacture, distribute and achieve market acceptance of new products with higher functionality and lower costs; extensive government regulation of our products; lower cost imports; increased freight costs; failure to comply with regulatory requirements or receive regulatory clearance or approval for our products or operations in the United States or abroad; potential product recalls; uncollectible

accounts receivable; the uncertain impact on our providers, on our suppliers and on the demand for our products of the recent global economic downturn and general volatility in the credit and stock markets; difficulties in implementing an Enterprise Resource Planning system; legal actions or regulatory proceedings and governmental investigations; product liability claims; inadequate patents or other intellectual property protection; incorrect assumptions concerning demographic trends that impact the market for our products; provisions of Ohio law or in our debt agreements, our shareholder rights plan or our charter documents that may prevent or delay a change in control; the loss of the services of our key management and personnel; decreased availability or increased costs of raw materials which could increase our costs of producing our products; inability to acquire strategic acquisition candidates because of limited financing alternatives; risks inherent in managing and operating businesses in many different foreign jurisdictions; increased security concerns and potential business interruption risks associated with political and/or social unrest in foreign countries where the company's facilities or assets are located; exchange rate and tax rate fluctuations, as well as the risks described from time to time in Invacare's reports as filed with the Securities and Exchange Commission. Except to the extent required by law, we do not undertake and specifically decline any obligation to review or update any forward-looking statements or to publicly announce the results of any revisions to any of such statements to reflect future events or developments or otherwise.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Invacare Corporation
(Registrant)

Date: January 7, 2010

/s/ Anthony C. LaPlaca

Anthony C. LaPlaca
Senior Vice President and General
Counsel