The Daily Dish

The Art of the Repeal

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It is no secret that the soon-to-be Trump Administration has put a bullseye on the Inflation Reduction Act's (IRA) clean energy tax credits. It is a comparable fact that many of the (very, very, very, very…) costly Biden Administration rulemakings will be targeted for removal using either the Congressional Review Act (CRA) or by new rulemaking. So, repeal will be in the air.

But *how* the repeal gets done sometimes matters. To see this, recall that when the IRA was passed, the Congressional Budget Office (CBO) projected that the clean energy credits would cost roughly $400 billion over the 10-year budget window. Yet more recently CBO put the price tag at more than double: $870 billion from 2022 to 2031. The credits turned out to be more popular than anticipated. But it is also true that the Environmental Protection Agency's rule to significantly raise the emissions standards for light and medium-duty vehicles contributed to the increase. In effect, the rule forces individuals to buy electric vehicles, which produces a greater use of the electric vehicle tax credits. This contributed roughly $200 billion of the higher cost. ($200 billion is based on the preliminary rule; the impact of the rule as finalized may be even greater.)

Now it gets interesting. The third open secret is that the House and Senate plan to use so-called reconciliation procedures to produce tax legislation to address the sunsets in the 2017 tax reform law. Reconciliation permits a simple majority vote in the Senate but comes at a price: The legislation cannot create deficits in any year beyond the 10-year budget window. This is why the 2017 law had so many sunsets. It also means that the smaller any deficits are in the first 10 years, the less tax law will be forced to sunset in the future.

So, there will be a premium on offsetting new tax reductions with either revenue increases or spending cuts. Eliminating clean energy tax credits is one such offset. But how big is the offset? If the law is passed in the presence of the current rule, it is over $800 billion. If, however, the rule is replaced with the old emission standards, the offset is only $600 billion.

In other words, the future EPA needs to exercise a little patience and only eliminate the Biden-era rule when the tax legislation is already law. It’s the art of the repeal.