



The Daily Dish

The IRA and Price Controls

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Health and Human Services Secretary-nominee Robert F. Kennedy Jr. faced the Senate Finance Committee yesterday and will appear before the Health, Education, Labor and Pensions Committee today. It is a reminder of the importance of good health policy and, as regular readers of Eakinomics are well aware, the dangers of bad health policy like that embedded in the Inflation Reduction Act (IRA).

There are two key provisions to highlight today. The first is a traditional, statutory price control labeled the Ceiling on Maximum Fair Price (“the ceiling”). See [my new paper](#) on this topic for the details. The second is an excise tax advertised as set at 95 percent. The excise tax starts at 65 percent of a product’s sales in the United States and increases by 10 percent every quarter to a maximum of 95 percent. As an alternative to paying the tax, manufacturers can choose to withdraw all of their drugs from coverage under Medicare and Medicaid.

It is important to note that the excise tax is 95 percent of the manufacturer’s sales prices, which includes the tax. This “tax on a tax” feature is misleading, however. When the tax is expressed as a percentage of the revenue the manufacturer receives from the sale, the effective rate is 1,900 percent. This means, for example, that the manufacturer would pay \$190 in taxes on a sale that yields \$10, for a total retail price of \$200.

There are two significant implications of this. First, if a company was ever subjected to the tax, it would be passed along to purchasers in the form of a higher price. (Note that the Internal Revenue Service draws the [same conclusion](#).) Indeed, it would be a much higher price - \$200 versus \$10 in the example above. Second, in its analysis of the IRA, the Congressional Budget Office (CBO) projected that the excise tax would raise no revenue. Given the magnitudes involved, this can only imply that CBO does not expect it to ever be used. Notice this also suggests that Congress could remove the excise tax without losing any revenue. (The “score” would be zero in budget lingo.)

This makes it clear that the excise tax exists only to support the price controls. This is a scary precedent. Price controls are damaging and short-sighted, and an anathema in a market-driven economy. Lawmakers, however, are regularly tempted to overlook their manifest flaws in the pursuit of short-run political favor. Because the IRA price controls are masquerading as voluntarily determined pricing, lawmakers, many of whose fondness for price controls is long-standing, may view the “negotiation” of MFPs as a promising approach to impose price controls in many other markets across the economy.