

REDUCING GENDER INEQUALITY THROUGH THE TAX CODE: A PINK TAX DEDUCTION

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Solutions to gender inequality may not fall neatly into our current infrastructure. We may need to think creatively and be willing to reimagine our existing systems. The Pink Tax Deduction, a tax deduction on products and services women pay more for, asks us to rethink our tax code to ensure systematic discrimination against women in the tax code in the form of implicit bias is replaced with explicit bias favoring women.

Introduction

When entering a convenience store to buy a razor, a man and a woman¹ will have very different experiences. A man will be confronted with bold, dark colored packaging and pick a men's four-blade razor costing \$1.94/razor.² A woman will be confronted with pastel and lighter colored packaging and pick a women's four blade razor for \$3.02/razor.³ These products will essentially be identical.⁴ While women's razors may be scented, men's razors are more likely to feature trimmers/edging blades, making the difference in production cost negligible.⁵ This reality of women paying more for similar products persists beyond razors. Women also pay more than men for other identical personal care items such as facial moisturizers that are priced \$3.09 higher than men's.⁶

The pattern of women paying more in the United States ("U.S.") is often known as the pink tax.⁷ The pink tax includes products oriented towards

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The term "woman" or "women" in this paper refers to people who buy the products or used the services that are included in the proposed tax deduction scheme. Thus, this includes anyone who identifies as a woman or is transgender. Further, this would include men who buy these products or use these services.

² Michelle Chang & Shari Lipner, *Gender-based stereotyping and cost discrepancies for razors*, 85 J. OF THE AMER. ACAD. OF DERMATOLOGY (Feb. 5, 2021), <https://pmc.ncbi.nlm.nih.gov/articles/PMC8484976/>.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ The pink tax throughout this paper is not an actual tax, it is a de-facto tax that is the product of women paying more for a variety of products and services.

PINK TAX DEDUCTION

women, such as women's lotions or hair products, as well as products and services exclusively used by women such as bras and women's medical services such as a pap smear.⁸ While many states have pursued eliminating portions of the pink tax through legislation, such as not taxing tampons or diapers, it has not been successful on a widespread scale.⁹ Also, as more people shop online, where there is a lack of uniformity for effective pink tax regulation due to the absence of federal regulation on the pink tax,¹⁰ women continue to spend more than their male counterparts for effectively the same products and services.

Not only are women paying more, but women are starting off with less. On average, women are paid less than men, are less likely to be promoted due to the glass ceiling, and are more likely to stay home and forgo promotional opportunities for child caring duties.¹¹ These problems compound onto each other, forcing women into an ongoing, self-reinforcing cycle of being paid less and having to pay more which keeps women from achieving the same level of financial prosperity as men on a systematic level.

The tax system can be used to combat this problem on a dramatic scale. As everyone in the U.S. is required to file their taxes every year, it is through a reform to the tax system that a widespread benefit can be realized at an individual level- where individual, women consumers can see money back in their pockets that otherwise would not be there. Other countries have done this and used their tax system to move towards women's equality. Specifically, the U.S. can use the tax system to pursue gender equality by providing itemized tax deductions for items women spend more on and products and services exclusively for women. Through itemized tax deductions, women would be able to lower the amount of taxable income on their taxes each year, ensuring they pay less to the state and, in turn, keep more money in their pockets.¹²

⁸ See generally Spencer Feingold, *What is the 'pink tax' and how does it hinder women?*, WORLD ECON. F. (Jul. 14, 2022), <https://www.weforum.org/stories/2022/07/what-is-the-pink-tax-and-how-does-it-hinder-women/>.

⁹ See Robert Dumas, *Sales tax on feminine hygiene products: Where it's changing*, TAX CONNEX (Mar. 25, 2025), <https://www.taxconnex.com/blog-/sales-tax-feminine-hygiene-products>.

¹⁰ See *id.*

¹¹ Richard Fry & Carolina Aragao, *Gender pay gap in U.S. has narrowed slightly over 2 decades*, PEW RSCH. CTR., (Mar. 4, 2025), <https://www.pewresearch.org/short-reads/2025/03/04/gender-pay-gap-in-us-has-narrowed-slightly-over-2-decades/>.

¹² *Credits and deductions for individuals*, INTERNAL REVENUE SERV. (last visited May 1, 2025), <https://www.irs.gov/credits-and-deductions-for-individuals>.

PINK TAX DEDUCTION

This reform would give rise to a few potential issues. This includes problems in efficiency and equality, administrability, tax code purpose, and constitutionality. However, they can be overcome through guidelines, reimagination of what the tax code looks like,¹³ and how we think about these issues. No solution will be perfect, and this solution is no exception; however, it offers broad applicability and represents a meaningful step toward a more equitable distribution of wealth across genders in the U.S.

This paper will discuss (I) the current problem women face economically in the U.S.; (II) how the tax code, specifically a pink tax deduction can be the solution; and (III) key potential issues with this solution.

I. The Problem

The patriarchy causes many social, professional and political obstacles for women. Of these obstacles, the financial disparities between men and women in the U.S. is one of the largest. This section will discuss (A) the current state of women's financial health in the U.S., and (B) explain how women pay more on average for goods and services than their male counterparts.

A. Current State of Women's Financial Health in the United States

Women in the U.S. struggle financially more than their male counterparts. This can be attributable to a few causes including that they are paid less,¹⁴ promoted less frequently,¹⁵ and are more often expected to stay

¹³ This paper does not advocate for uprooting and restructuring our tax system; however it does call for a rethinking of what categories of items and types of services we are willing to tax or deduct from taxes. As the current tax system calls for rigid categories, this paper tries to reimagine what those categories are, what falls into those categories, and argues why that would be beneficial.

¹⁴ William Lutz, *New Report: Women Earn Less than Men in All Occupations, Even Ones Commonly Held by Women*, INST. FOR WOMEN'S POL'Y RSCH. (Mar. 7, 2024), <https://iwpr.org/new-report-women-earn-less-than-men-in-all-occupations-even-ones-commonly-held-by-women/>.

¹⁵ Kelly Shue, *Women Aren't Promoted Because Managers Underestimate Their Potential*, YALE INSIGHTS (Sept. 17, 2021), https://insights.som.yale.edu/insights/women-arent-promoted-because-managers-underestimate-their-potential?mkt_tok=NzAyLUNJSS01MDcAAAGCrMCcBDvviGVzexdfIkHFBVIs1gGD2sVuZCxxkx12Vzx1VgyHEUUEp6BQkgIQyFLC0Uy1U-7rWqmSaNprt4tqfzOInUBxuYKakUyx0l7RNP0.

PINK TAX DEDUCTION

home for gendered caretaking responsibilities.¹⁶ Together, these factors create a vicious cycle where women get paid less, stay home more, and in turn, continue to get paid less due to not being promoted.

In 2024, women earned 85% of what men earned, meaning a woman earned \$0.85 to every \$1 a man earned.¹⁷ This pay gap has been attributed to a variety of factors including education achievement, gendered work occupations, and work experience.¹⁸ Women tend to have less work experience or be promoted at lower rates than their male counterparts because of their increased likelihood to stay home and care for children.¹⁹ These caretaking responsibilities have led women to stay out of work for longer, get less experience than their male counterparts, and forgo promotional opportunities.²⁰

Not only are women staying home more than men but when women do work, they are more likely to work in a lower paying occupation than their male counterparts.²¹ In fact, women do not only occupy a majority of the workforce in lower paying fields, but studies have found that if women start entering higher paying, male dominated, fields in masses then the pay of those occupations are more likely to drop.²² Thus, we see “feminine” occupations such as nursing and teaching being paid less than “masculine” occupations such as construction.²³

This reinforcing cycle of women working less, staying home more, and consequently getting paid less will not be easily broken without reconsidering gender stereotypes in the U.S. This includes women not assuming most of the caretaking responsibility, femininity not being seen subconsciously by society as a negative, and workplaces not giving into gender biases in hiring and promotion decisions. However, as this cycle persists, women will continue to be worse off financially than their male counterparts.

¹⁶ Katherine Gallagher Robbins & Jessica Mason, *Women's unpaid caregiving is worth more than \$625 billion – and it could cost more*, NAT. P'SHIP FOR WOMEN & FAMILIES (Aug. 14, 2023), <https://nationalpartnership.org/womens-unpaid-caregiving-worth-more-than-625-billion/>.

¹⁷ Fry & Aragao, *supra* note 11.

¹⁸ Francine Blau & Lawrence Kahn, *The Gender Wage Gap: Extent, Trends, and Explanations*, 55 J. OF ECON. LIT. 789 (Sept. 2017).

¹⁹ See Robbins & Mason, *supra* note 16.

²⁰ See *id.*

²¹ See Jorgen Harris, *Do wages fall when women enter an occupation?*, 74 LABOUR ECON. 102102 (2022).

²² See *id.*

²³ See *id.*

PINK TAX DEDUCTION

This cycle that leads women to fare worse than men financially also negatively impacts men. Men are harmed by gender stereotypes that impact their physical and mental health.²⁴ Men deal with oppressive stereotypes that expect them to be the bread winners and not show vulnerability.²⁵ This leads to men having worse mental health than women and higher suicide rates.²⁶ This also leads to men overworking themselves in the workplace due to “masculinity contests” that relate to their general wellbeing lowering as well as their mental health.²⁷ Thus, the state of women’s financial health and independence in the U.S. not only impacts women, it impacts everyone.

B. Women Pay More

Outside of the large scale stigma against feminine and gender stereotypes that leave women with 85% less than men, the items and services women pay for are also disproportionately expensive. Gendered products, or products labeled as “women’s” or “female” on their packaging, are 17% more expensive than male gendered counterparts.²⁸ For non-gendered products, women pay about 4% more.²⁹ This can be attributed to both women self-selecting into paying more money for goods as well as the goods themselves costing more.³⁰ Regardless, the price difference reflects a real cost of living difference of about 15-20%.³¹

Studies into particular products find that women pay “\$1,351 more per year for similar products and services compared to men.”³² This price difference is most common in personal care items such as health and beauty products.³³ For example, a nearly identical razor that is marketed towards women can see a 150% markup.³⁴ While this markup is described by

²⁴ See Colette Van Laar, Aster Van Rossum, Natasza Kosakowska-Berezecka, Renata Bongiorno, Katharina Block, *MANDATORY - why men need (and are needed for) gender equality progress*, 15 Sec. Personality and Soc. Psych. (2024).

²⁵ See *id.* at 6-7.

²⁶ *Id.* at 6.

²⁷ *Id.* at 6-7.

²⁸ Kayleigh Barnes & Jakob Brounstein, *The Pink Tax: (Why) Do Women Pay More?*, KILT’S CTR. AT CHI. BOOTH MARKETING DATA CTR. PAPER (Nov. 4, 2022), https://jakobbrounstein.github.io/files/BarnesBrounstein_2024_wp.pdf.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Kim, *The Pink Tax: The Cost of Being a Woman*, NAT. ORG. FOR WOMEN (Aug. 8, 2024), <https://now.org/blog/the-pink-tax-the-cost-of-being-a-woman/>.

³³ See *id.*

³⁴ *Id.*

PINK TAX DEDUCTION

manufacturers as an increased cost to adding colors or designs to women's products, that does not fairly contribute to the entire cost of the markup.³⁵ A study of "800 gender-specific products from nearly 100 brands" found personal care items were 13% more expensive and accessories and adult clothing were 7% and 8% more expensive.³⁶ Thus, women are paying more for gendered products than men.

Another explanation of women paying more for women's products is that tariffs are disproportionately impacting women at higher rates than men.³⁷ In fact, women's overcoats, suits, shirts, and underwear are all taxed at higher rates than their male counterparts.³⁸ Specifically, "combining all the categories, tariff rates on women's clothing are on average 16.7%, 2.9 percentage points higher than the 13.6% average for men's."³⁹ These tariff rates directly impact the female consumer and increase her everyday costs.⁴⁰ This is only further exacerbated by the current tariff war President Trump is pursuing across the globe.⁴¹

Further, women pay more for medical services than men. This increased expense goes beyond maternity and childbirth care, services only women can receive when viewed through a binary gender framework.⁴² In fact, despite the Affordable Care Act, insurance covers less of the same medical costs for women.⁴³ This includes "radiology, laboratory, mental health, emergency care, office visits, and physical or occupational therapy."⁴⁴ This can be explained by women going to the doctor more on average, needing more services on average, and/or having worse insurance coverage on average.⁴⁵ Further, women need more women-only services than men need men-only

³⁵ See *id.*

³⁶ See generally Feingold, *supra* note 8.

³⁷ See Ed Gresser & Elaine Wei, *PPI's Trade Fact of the Week: U.S. clothing tariffs are unfair to women*, PROGRESSIVE POLY. INST. (Dec. 6, 2023), <https://www.progressivepolicy.org/ppis-trade-fact-of-the-week-u-s-clothing-tariffs-are-unfair-to-women/>.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ See *id.*

⁴¹ See Nathaniel Meyersohn, *Pink tariffs' cost women more than \$2 billion a year*, CNN (Apr. 26, 2025), https://www.cnn.com/2025/04/16/business/womens-clothes-pink-tariffs?cid=external-feeds_iluminar_google.

⁴² See Theresa Gaffney, *Women spend 20% more per year on out-of-pocket health costs, says report*, STAT (Sept. 29, 2023), <https://www.statnews.com/2023/09/29/female-patients-medical-expenses/>.

⁴³ See *id.*

⁴⁴ *Id.*

⁴⁵ See *id.*

PINK TAX DEDUCTION

services.⁴⁶ Specifically, women need 9.9% more services than their male counterparts, excluding maternity care which would only further increase this number.⁴⁷

Women also pay more for optional, aesthetic services than men. Women pay more on average for a haircut, even if it takes the same time and difficulty level as a men's style.⁴⁸ Also, women are more likely to pay for nail, tanning, and other facial and skin services than their male counterparts.⁴⁹ While these are optional services, women are often socially pressured to opt-in.⁵⁰ Women are also rewarded when they adopt society's standard of beauty, otherwise known as pretty privilege, by being treated better, paid more, and promoted more frequently.⁵¹ Specifically, research has indicated that what women do to work on themselves such as their grooming, wardrobe selection, and makeup, make the biggest difference for how they are perceived in the workplace.⁵² Thus, women are incentivized to buy these services for increased payback in other areas of their lives, such as professional benefits.

Another aspect of women's economics is that women have access to and are often required to buy more products than men. Looking at products alone, women need to buy bras, menstrual products, and vaginal health products. Men are not required to buy these items for their everyday lives. Further, women buy more cosmetic and personal care items than men.⁵³ Purses are yet another example, women need to buy bags at higher rates than

⁴⁶ See Jay Bhatt, Asif Dhar, Kulleni Gebreyes, Wendy Gerhardt, Leslie Korenda, & Jennifer Radin, *What's causing US women to skip or delay medical care?*, DELOITTE (Sept. 10, 2024), <https://www2.deloitte.com/us/en/insights/industry/health-care/why-women-skip-or-delay-health-care.html>.

⁴⁷ *Id.*

⁴⁸ See Roz Tappenden & Linda Serck, *Why do women pay more for a short haircut?*, BBC (Jan. 9, 2020), <https://www.bbc.com/news/uk-england-50691249>.

⁴⁹ See *Women more likely to visit a salon, but a growing number of men interested in these services*, MINTEL (Jul. 23, 2012), <https://www.mintel.com/press-centre/women-more-likely-to-visit-a-salon-but-a-growing-number-of-men-interested-in-these-services/> (describing 72% of women use professional care services compared to 52% of men).

⁵⁰ See generally NANCY ETCOFF, *SURVIVAL OF THE PRETTIEST: THE SCIENCE OF BEAUTY* (2000).

⁵¹ Donna Henson, *What's the price of pretty privilege?*, BOND UNIV. (Dec. 8, 2022), <https://bond.edu.au/news/whats-price-of-pretty-privilege>.

⁵² Jaclyn Wong & Andrew Penner, *Gender and the Returns to Attractiveness*, 44 SOCIAL STRATIFICATION & MOBILITY 113 (June 2016).

⁵³ See Healthy Living Science Team, *Survey finds use of personal care products up since 2004 – what that means for your health*, ENV. WORKING GRP. (Jul. 26, 2023), <https://www.ewg.org/research/survey-finds-use-personal-care-products-2004-what-means-your-health>.

PINK TAX DEDUCTION

men⁵⁴ because women's pockets are often smaller than their male counterparts.⁵⁵ While bras and menstrual products are necessities and cosmetic products are not, the incentive for women to buy cosmetic products is high, as women are rewarded in society via pretty privilege, as explained above.

These disparities are further deepened when analyzing women's consumption patterns at an intersectional level. For example, hair products for black women cost up to 9 times more than hair products for any other ethnicity.⁵⁶ Black women are deemed by society to need to perform whiteness and femininity in the workplace to be taken seriously.⁵⁷ Black women's conformity to these ideals affect their access to the benefits of pretty privilege or other personal and professional promotions that are directly impacted by the way one portrays themselves to society.⁵⁸ Thus, in order for black women to conform, they need to buy more products and services that ensure they fit into a white feminine standard of beauty. This only heightens their overall spending and deepens the already existing wealth gap.⁵⁹

Therefore, women, especially Black women, are paying more out of pocket than men on a variety of goods and services. This not only includes identical gendered products but also healthcare and other services that are the same. Outside of similar goods and services, women are more likely to have to pay for women-only products and services, such as bras and pap smears, at higher rates than men need to pay for men-only products and services. Further, women are more likely than men to opt in to optional services due to an increased incentive/reward by society for doing so. This leaves women less

⁵⁴ See *The Sexist History of Pockets*, DOVETAIL WORKWEAR, https://dovetailworkwear.com/blogs/news/the-sexist-history-of-pockets?srltid=AfmBOoqduMh1sKPPEzyS7vyl0Om-JiMq4BkHnqmPbNj_TfZDEl5ipuq5 (last visited May 2, 2025)(finding the “average pockets in women’s jeans are 48% shorter and 6.5% narrower than men’s pockets”).

⁵⁵ See Pamela Marolla, *Commentary: Women’s pockets and women’s rights*, TRI STATES PUB. RADIO (Jan. 19, 2023), <https://www.tspr.org/tspr-commentaries/2023-01-19/commentary-womens-pockets-and-womens-rights>.

⁵⁶ See Yacine Sow, Susan Taylor, Amanda Onalaja-Underwood, & Tiaranesha Jackson, *Minority hair tax: pricing bias in haircare products*, 89 J. OF THE AMER. ACAD. OF DERMATOLOGY (Sept. 2023).

⁵⁷ See Elizabeth Cole & Alyssa Zucker, *Black and White Women’s Perspectives on Femininity*, 13 CULTURAL DIVERSITY AND ETHNIC MINORITY PSYCH. 1, 1 (2007).

⁵⁸ See *id.*

⁵⁹ Joseph Dean, *The Racial Wealth Gap 1992 to 2022*, NAT. COMM. REINVESTMENT COAL. (Oct. 2024), <https://ncrc.org/the-racial-wealth-gap-1992-to-2022/#:~:text=In%202022%2C%20the%20median%20White,of%20Hispanic%20household s%20at%20%2462%2C120>.

PINK TAX DEDUCTION

financially well off and with less money in their pockets at the end of the day, exacerbating the already existing wage gap and systematic problems.

II. The Solution

There are a lot of potential solutions to the financial disadvantage women face, but this paper will outline one in particular, a pink tax deduction. This section will first describe (A) why the solution should be within the tax system, (B) how other countries use their tax codes to promote gender equality, and (C) a proposed solution— an itemized tax deduction.

A. Why Via the Tax System

While the economic problems women currently face can be solved in many ways, the tax system will be one of the most effective. First, all working people are required to file taxes, which resulted in 161 million tax returns filed in 2023.⁶⁰ With working women being required to file taxes every year, the creation of a code with an explicit bias that favors women can be an effective way to close gendered wealth gaps. Much of the current tax system has implicit biases against women.⁶¹ For example, in the tax code, some of the implicit biases against women include the incentive for the woman to stay home and not work when married couples jointly file, the less preferential tax treatment to the cost of unpaid labor such as caregiving, and rewarding risk taking behavior in investment and business incentives.⁶² As women are more often secondary earners, bear the burden of caregiving responsibilities, and less likely to partake in risky behavior, the tax system implicitly favors men.⁶³ Thus, having a remedy for women in the code that favors them would be an important change, especially while wage discrimination and economic prosperity differences persist in the U.S.⁶⁴

Also, the tax system and its policies directly implicate and impact the amount of money in an individual's wallet at the end of the day. Thus, there

⁶⁰ See Sarah Edwards, *How Many Tax Returns Are Filed Each Year? (2025)*, CONSUMER SHIELD (Nov. 8, 2024), <https://www.consumershield.com/articles/how-many-tax-returns-are-filed-each-year>.

⁶¹ Ariel Jurow Kleiman, Amy Matsui, & Estelle Mitchell, *The Faulty Foundations of the Tax Code*, NAT. WOMEN'S LAW CTR. (Nov. 2019), <https://nwlc.org/wp-content/uploads/2019/11/NWLC-The-Faulty-Foundations-of-the-Tax-Code-Accessible-FINAL.pdf>.

⁶² *Id.* at 6.

⁶³ *See id.*

⁶⁴ Fry & Aragao, *supra* note 11.

PINK TAX DEDUCTION

should always be an economic policy arm to assist in the fight for women's equality alongside social and political policy arms. This is especially true when considering that wealth and capital are what allow a person to participate more in other aspects of our social and political life.⁶⁵ Wealth allows people to have more time and freedom to educate themselves, go out to vote, and hire caretakers.⁶⁶ Thus, having access to increased wealth will impact women by uplifting their ability to access different educational, occupational, and societal arenas. Increased wealth can lower the burdens that childcare, lack of education, and access to voting currently place on women.

Through reforms in the tax system, a more fair and equitable tax system can be created. This system is important because it can foster "economic empowerment by addressing the systemic barriers to financial independence."⁶⁷ Additionally, it will ensure that "everyone contributes to public services and benefits from them" which creates a more equitable system at large through redistributing "wealth from the richest in society to everyone else."⁶⁸

Lastly, there is an expressive value in doing this. Pursuing reforms in the tax system would demonstrate that our institutions care about women's ability to pay. Specifically, it demonstrates that the tax system cares about women's ability to pay. This would showcase to other domestic and international political institutions and policymakers that the tax system cares about the gendered wealth gap and the need to act.

B. Analysis of Other Countries Using the Tax System to Achieve Women's Equality

⁶⁵ See Fabian Pfeffer & Robert Schoeni, How Wealth Inequality Shapes Our Future, 2 WEALTH INEQUALITY: ECON. AND SOC. DIMENSIONS 2, 15-16 (Oct. 2016).

⁶⁶ See generally ELMER SCHATTSCHNEIDER, THE SEMISOVEREIGN PEOPLE (1960); see also Jessica Forden and Teresa Ghilarducci, U.S. Caregiving System Leaves Significant Unmet Needs Among Aging Adults, SCHWARTZ CTR. FOR ECON. PLCY. ANALYSIS (Dec. 5, 2023), <https://www.economicpolicyresearch.org/resource-library/u-s-caregiving-system-leaves-significant-unmet-needs-among-aging-adults#:~:text=Household%20wealth%20does%20not%20determine,care%20than%20lower%20income%20adults>.

⁶⁷ Bestman Collins & Nwobi Samuelorcid, *The Importance of Fixing the Tax System for Gender and Racial Justice: An Analysis of the United States System of Taxation*, 16 BEIJING L. REV. 570, 584 (2025).

⁶⁸ *Id.*

PINK TAX DEDUCTION

Countries around the globe are making gender equality a priority in their policy making.⁶⁹ This has recently taken form in ensuring gender inequality is taken into account when budgeting and making fiscal decisions in policy and tax codes, otherwise known as gender-responsive budgeting (“GRB”).⁷⁰ Over 80 countries have adopted a GRB campaign to their fiscal policy which ensures that decisions pass through a gender lens which ensures they meet certain gender equality objectives.⁷¹

Specifically, countries have taken to the tax code to fight for gender equality. 50 countries have reduced or eliminated consumption taxes on menstrual products.⁷² While explicit bias in tax systems that favor women are rare, two examples exist in Hungary and Israel.⁷³ Hungary implemented “a tax allowance... targeted at mothers of more than four children” and Israel “provides extra tax credit points [which] are available to mothers.”⁷⁴ Additionally, several countries in Asia and the Pacific have adopted specific tax incentives to specific groups of women such as “single women, working mothers, and female entrepreneurs.”⁷⁵ Nepal is yet another example where they have implemented a “25% tax exemption for a deed registered in a woman’s name.”⁷⁶ Kazakhstan has also elected to implement a tax exemption on land for women.⁷⁷

More common is the risk of implicit bias in tax systems around the globe. A first of its kind study found that 16 countries reported having assessed the risk of implicit bias against women in their tax codes.⁷⁸ These

⁶⁹ See Laura Abramovsky & Hazel Granger, *Look beyond the tampon tax: alternative solutions to close gender gaps*, ODI GLOBAL (Jul. 10, 2024), <https://odi.org/en/insights/look-beyond-the-tampon-tax-alternative-solutions-to-close-gender-gaps/>.

⁷⁰ See *id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Tax Policy and Gender Equality: A Stocktake of Country Approaches*, ORG. FOR ECON. COOP. AND DEV., 7 (2022), <https://www.oecd.org/content/dam/oecd/en/topics/policy-issues/tax-policy/overview-tax-policy-and-gender-equality-a-stocktake-of-country-approaches.pdf>.

⁷⁴ *Id.*

⁷⁵ Hannelore Niesten & Keiko Nowacka, *How Tax Reform Can Help Women in Asia and the Pacific*, ASIAN DEV. BLOG (Aug. 3, 2023), <https://blogs.adb.org/blog/how-tax-reform-can-help-women-asia-and-pacific>.

⁷⁶ Mary-Ann Stephenson, Clare Coffey & Susan Himmelweit, *A Short Guide to Taxing for Gender Equality*, WOMEN’S BUDGET GRP. (Mar. 2019), <https://wbgr.org.uk/wp-content/uploads/2019/03/Oxfam-short-guide-to-tax-and-gender.pdf>

⁷⁷ Hannelore Niesten, *Taxation and Gender in Asia and the Pacific*, ASIAN DEV. BANK (Jul. 2023), <https://www.adb.org/sites/default/files/publication/898766/sdwp-087-taxation-gender-asia-pacific.pdf>.

⁷⁸ *Tax Policy and Gender Equality: A Stocktake of Country Approaches*, *supra* note 70.

PINK TAX DEDUCTION

countries and others have been trying to get rid of this implicit bias in their tax systems in a few ways. For example, the “Philippines removed the automatic allocation of tax benefits to the husband.”⁷⁹ Additionally joint filing has been shown to have a negative impact on women due to incentives to stay home as they are more often the secondary earner.⁸⁰ To combat this incentive, Malaysia, Hong Kong, and China started “taxing spouses individually unless they elect for joint assessment” and the Republic of Korea and Thailand “removed joint taxation” completely.⁸¹

C. Itemized Tax Deductions Is the Answer

The solution: an itemized tax deduction on products and services women pay more and exclusively for, or what this paper will call the pink tax deduction. This would be an itemized tax deduction that would allow claimants to deduct certain items they buy that fall into the pink tax deduction category, therefore lowering their overall taxable income. While all people would be able to claim this deduction, women would reap a greater benefit because they disproportionately buy the products and services that fall into the tax deduction category.

The pink tax deduction would include items and services women pay exclusively for and products marketed towards women that they pay more for. The former category includes bras, menstrual products, and purses. It also includes women’s-only medical services such as childbirth and pap smear exams, and anything necessary for women’s health including gender reassignment surgeries and bariatric surgeries. The latter category includes products that are marketed towards women exclusively, or gendered products, where the women’s version of the product costs more. This includes women’s clothing, personal care items, vitamins, and any product that states “women, female, or girl” where there is a “men, male, or boy” counterpart to the same product by the same company.

The deductible cost of products and services only for women, such as bras and purses, would include the full cost of the item. For gendered products, or products marketed towards women where there is a male counterpart, the deductible cost would be the difference between the women’s item purchased and the average cost of the male equivalent item. The deduction would also place limits on lavish items (such as extremely expensive

⁷⁹ Niesten, *supra* note 74.

⁸⁰ See Kleiman, Matsui, & Mitchell, *supra* note 59.

⁸¹ Niesten, *supra* note 74.

PINK TAX DEDUCTION

facial creams or clothing items) as other sections of the tax code lay out.⁸² This would ensure that the system cannot be taken advantage of by buying the most expensive gendered product in order to reap the greatest deductible cost.

This deduction would not include optional cosmetic products, surgeries, or services. This includes makeup, nail and hair services, and elective plastic surgery. While these are products and services that women opt in to and society incentivizes,⁸³ the lines for these elective, consumption taxes would be too hard to draw. The clearer the lines, the better and more efficient the tax code.⁸⁴ Additionally, if these services are deductible, the tax system would be inherently incentivizing women to take part in these purchases, buying more of these cosmetic services, and enforcing the existing patriarchal scheme which is a perverse incentive both for individuals and society as a whole. While these goods and services are disproportionally sold by women,⁸⁵ and therefore incentivizing more consumption of these products can also help women, it would be doing more harm by reinforcing current gendered structures and norms. Thus by keeping these items out, it would ensure that the tax code is more administrable.⁸⁶

This deduction would only be available if what you can deduct is greater than 7.5% of your adjusted gross income (“AGI”). It would model the current medical and dental expense deduction that only allows you to deduct the cost if it is greater than 7.5% of your AGI.⁸⁷ This would ensure that lower income individuals, the ones who will need this deduction the most, will be able to benefit the most from it. Additionally, the pink tax deduction will be subject to the standardized tax deduction. Individuals and households can still opt in to the standardized tax deduction if their allowable itemized deductions total, including items in the pink tax deduction, is less than their standard deduction.⁸⁸

⁸² See IRC 274(k)(1)(A).

⁸³ See Nafees Alam, *The Socioeconomics of Pretty Privilege*, PSYCH. TODAY (Jan. 21, 2025), <https://www.psychologytoday.com/us/blog/pop-culture-mental-health/202501/the-socioeconomics-of-pretty-privilege#:~:text=Socioeconomic%20Implications%20of%20Pretty%20Privilege&text=The%20halo%20effect%20can%20create,and%20rigorous%20of%20societal%20systems.>

⁸⁴ *Pevsner v. Commissioner*, 628 F.2d 467, 470 (5th Cir. 1980).

⁸⁵ See *Economic Snapshot of the Salon Industry*, PROF. BEAUTY ASSOC. (Jul. 2020), <https://www.phagans.com/wp-content/uploads/2021/01/2020economicsnapshotofthesalonindustry.pdf>.

⁸⁶ See generally *Pevsner v. Commissioner*, 628 F.2d 467 (5th Cir. 1980).

⁸⁷ See 26 U.S.C. § 213(a).

⁸⁸ See *Deductions for individuals: The difference between standard and itemized deductions, and what they mean*, INTERNAL REVENUE SERV., <https://www.irs.gov/newsroom/deductions-for->

PINK TAX DEDUCTION

III. Potential Issues

There are a variety of issues that this pink tax deduction would potentially raise. These problems arise both within the confines of the tax system (what it is, and what it is supposed to be) as well as outside the tax system in general constitutionality and legality terms. Specifically, the pink tax deductions give rise to potential (A) efficiency and equity, (B) administrability, (C) personal/cosmetic purpose definitional line drawing, and (D) constitutional problems.

A. Efficiency and Equity

The first, and most glaring, issue is a problem of efficiency and equity. This problem is three fold: (1) tax deductions are regressive, (2) manufacturers and sellers could raise prices of items that fall into the pink tax deduction, and (3) a tax deduction does not address the cause of inequalities between the genders. This paper will address each in turn.

1. *Tax Deductions are Regressive*

Tax deductions are regressive.⁸⁹ Income taxes, on the other hand, are progressive.⁹⁰ Progressivity means that people who have higher incomes will end up paying more in taxes,⁹¹ while the regressivity of tax deductions means that the less money you have and spend, the less you will be able to deduct.⁹² Thus, people with lower incomes will be able to deduct less from their total taxable income compared to people who spent more on deductible expenses, usually wealthier individuals.⁹³ This goes against the tax code's general favorability toward progressive tax laws.⁹⁴

individuals-the-difference-between-standard-and-itemized-deductions-and-what-they-mean#:~:text=Some%20taxpayers%20choose%20to%20itemize,to%20use%20the%20standard%20deduction (last visited May 2, 2025).

⁸⁹ See Anna Tyger & Scott Eastman, *The Regressivity of Deductions*, TAX FOUND. (Jun. 28, 2019), <https://taxfoundation.org/blog/regressivity-of-deductions/>.

⁹⁰ *Progressive Tax*, TAX FOUND., <https://taxfoundation.org/taxedu/glossary/progressive-tax/> (last visited May 2, 2025).

⁹¹ See *id.*

⁹² See Tyger & Eastman, *supra* note 86.

⁹³ See *id.*

⁹⁴ See Alex Muresianu, *Yes, the US Tax Code Is Progressive*, TAX FOUND. (Sept. 17, 2021), <https://taxfoundation.org/data/all/federal/us-tax-system-progressive/>.

PINK TAX DEDUCTION

As applied to the pink tax deduction, it means that lower income women will not be able to report as many itemized deductions because they buy less of them than the average wealthier women. While this argument is taken, it is not convincing given that unlike luxuries, most of the items and services in the pink tax deductible category are necessary meaning that wealthy and unwealthy women purchase these products in similar amounts. Thus, the difference between the deductible income is less glaring than at first brush.

Additionally, the tax deduction only being available if the deductible income is greater than 7.5% of your AGI solves for some of the regressivity problem as it only is available to people who spend a large percentage of their income on these types of purchases. So, wealthier individuals will not benefit unless they buy enough of these products when compared to their total income while lower income individuals will. This tax deduction's regressivity is also less of a problem when looking at who would be reaping the benefits of this deduction more. Black women will be more likely to fall into the category of spending more than 7.5% of their income on pink tax deductible items because they earn less than other demographics in society and pay more for items that fall within this deduction.⁹⁵ Thus, women who need this deduction the most are the ones who would most be able to access it and would disproportionately benefit from it.

2. *Manufacturers and Sellers Could Raise Prices of Items That Fall into the Pink Tax Deduction*

The second issue that arises from the same efficiency and equity bucket is that manufacturers could raise prices of items that fall into the pink tax deduction category. Manufacturers and sellers would recognize that women have more money to spend, as they are keeping more of their income, thus, they would be willing to spend more on products. Manufacturers and sellers absorbing the benefits of a tax reform policy has been demonstrated by a reduction in the value added taxes ("VAT") where consumers felt the impact of the tax cut the least.⁹⁶ Consumers feeling the least impact of a tax policy could potentially extend to tax deductions in a similar way but the extent of which is unknown. If it does extend, this critique would limit the effectiveness

⁹⁵ See *Black Women Won't Reach Pay Equity Until 2227*, INST. FOR WOMEN'S PLCY. RSCH. (Jul. 2024), <https://iwpr.org/wp-content/uploads/2024/07/Black-Women-Wage-Gap-Fact-Sheet-2024.pdf>; see also Sow, Taylor, Onalaja-Underwood, & Jackson, *supra* note 55.

⁹⁶ Youssef Benzarti & Dorian Carloni, *Who Really Benefits from Consumption Tax Cuts? Evidence from a Large VAT Reform in France*, 11 AMER. ECON. J.: ECON. PLCY. 38, 61-62 (2019).

PINK TAX DEDUCTION

of the pink tax deduction solution because it would pass the benefit to manufacturers and sellers of pink tax deductible goods and services.

Any impact on how this would affect the consumer is speculative as the VAT tax cut study is an entirely different portion of the tax code that impacts consumers in a different way: VAT tax cuts affect consumers on the front end while tax deductions happen on the back end.⁹⁷ Thus, any impact it has will be different on the markets and is speculative for how the economy is doing and how other economic, and sociopolitical factors fall at the time. Further, there could be a policy proposed in tandem with the pink tax deduction that taxes manufacturers and sellers of these products and services more or disincentives the raising of the cost of goods if they have gendered price differences or serve only women. Thus, while this critique is persuasive, this solution does not need to be mutually exclusive with others. As any impact on the consumer is speculative at the status quo, this tax deduction should still be pursued because it is a step in the right direction.

3. The Pink Tax Deduction Does Not Address the Cause of Inequalities Between the Genders

The last critique that falls under this solution's efficiency and equity problem is that the pink tax deduction does not address the cause of inequalities between genders. It is argued that a tax solution that attempts to address gender equality should pursue the cause of the gender inequality in order to be most effective.⁹⁸ To pursue other policies could be “generating a false sense of progress towards gender equality, while distracting from debate about a wider range of solutions.”⁹⁹

However, as stated before, the pink tax deduction would not need to work on its own. Especially because addressing underlying causes of gender inequality will take time, money, and public buy-in, women in the meantime should not suffer.¹⁰⁰ In order to limit this negative impact, the pink tax deduction can step in and be an effective solution to mitigate harm that standing causes of gender inequality have on women. Also the deduction would bring light to the fact that we have an economic gender inequality divide

⁹⁷ See *id.* at 40-41.

⁹⁸ See Abramovsky & Granger, *supra* note 67.

⁹⁹ *Id.*

¹⁰⁰ *Gender Equality Is Stalling: 131 Years to Close the Gap*, WORLD ECON. F. (Jun. 20, 2023), <https://www.weforum.org/press/2023/06/gender-equality-is-stalling-131-years-to-close-the-gap/>.

PINK TAX DEDUCTION

in our country, which would put more people on notice and create more opportunities for creative solutions and time to buy into them.

B. Administrability

The second issue within the tax system that this solution could run into is administrability. The tax system prefers simplicity and to have lines that leave little discretion for taxpayers and administrators.¹⁰¹ As this tax deduction would be itemized, it would require particularization as to what items are and are not included. For example, items such as purses, bras, dresses, menstrual products, and women's-only medical services will be easy to identify as these are exclusively women's products. Additionally, items marketed towards women will also be easy to identify as the item will be a "women's shirt" or a "women's lotion." The label on the item will be dispositive as to if it is a gendered product. Other products may be more difficult to categorize but tax administrators are well equipped to determine if a product has a gendered counterpart, is a women-only product, or something else (such as a gender neutral or male-only product).

Further, any additional burden this creates on the state or the tax administration is worth it as it will be in pursuit of an important government objective, closing the income gap between men and women. This is especially true given that other "burdens" on the tax system in terms of administrability have not been a problem when the section in question benefits wealthy men. The biggest challenge for the tax system after a rule is promulgated is determining whether an expense that is trying to be deducted is lavish. However, the tax system already makes these determinations and has the infrastructure to make them in the future under a different section of the tax code.¹⁰²

This could give rise to another issue- leaving what is considered in the tax deduction to tax administrators would give them a significant amount of discretion that gives room for their implicit gender biases to come into play. This is especially true given most tax administrators are men.¹⁰³ However, this can be overcome with a detailed directive from Congress and a detailed promulgated rule that leaves little to the absolute discretion of administrators.

¹⁰¹ See generally *Pevsner v. Commissioner*, 628 F.2d 467 (5th Cir. 1980).

¹⁰² IRC 274(k)(1)(A).

¹⁰³ Telita Snyckers, *Tax policy and gender disparity: A call to action on International Women's Day 2024*, TAX JUST. NETWORK (Mar. 8, 2024), <https://taxjustice.net/2024/03/08/tax-policy-and-gender-disparity-a-call-to-action-on-international-womens-day-2024/>.

PINK TAX DEDUCTION

Overall, the burdens are few and where they exist, they are worth it in order to keep more money in women's pockets.

C. Personal/Cosmetic Purpose

The last major issue that this solution poses inside the tax code is in regard to how items in this deduction can be considered personal in nature and thus have historically been left out of tax deductibles. There are multiple areas of the tax code where lines need to be drawn to determine if an expense is tax exempt or deductible. Two areas in particular are at issue here, (1) medically necessity versus cosmetic expenses and (2) business outlays versus personal outlays.

1. *Medically Necessity vs. Cosmetic Expenses*

There is a line in the tax code that ensures some medical expenses are deductible while others do not.¹⁰⁴ This dividing line is medically necessity.¹⁰⁵ Expenses that are medically necessary get covered but expenses that are considered cosmetic do not.¹⁰⁶ This creates some discretion for tax officials who have to decide whether a certain expense fits the definition of medically necessity.¹⁰⁷ This discretion tends to bring out implicit biases that these administrators have against the recipient.¹⁰⁸

Implicit biases can come out in a variety of ways. For example, trans individuals often do not have their gender reaffirming treatment covered because it is seen as cosmetic as opposed to medically necessary.¹⁰⁹ This is true even though for many trans individuals this treatment is medically necessary.¹¹⁰ Their discretion becomes evident when comparing to what tax administrators have included in the medically necessary category including "therapeutic swimming pools, clarinet lessons, and the cost of prayer by a Christian Science Practitioner."¹¹¹ The pink tax deduction would include gender affirming care as this is a medically necessary expense that is enjoyed by women and

¹⁰⁴ See Samuel Singer, *Marginalizing Trans Medical Expenses: Line-Drawing Exercises in Tax*, 31-2 WINDSOR YEARBOOK OF ACCESS TO JUST. 209, 215 (2013).

¹⁰⁵ See *id.*

¹⁰⁶ See *id.*

¹⁰⁷ See *id.* at 211.

¹⁰⁸ See *id.* at 212.

¹⁰⁹ See Singer, *supra* note 101.

¹¹⁰ *Id.*

¹¹¹ *Id.* at 217.

PINK TAX DEDUCTION

transwomen. Thus, it is an expense without a male¹¹² alternative, much like pregnancy care or treatments by the OBGYN.

Overall, this line is hard to draw, similar to lines regarding what will be determined as lavish in the administrability section above. However, they are not impossible and the infrastructure is already in place to make it happen. With detailed statutes and promulgated rules that ensure that medically necessary treatment that women receive beyond childbearing and menstrual care is deductible, legislatures can ensure that administrators' biases do not come into play. Specifically ensuring that gender affirming care and women's medically necessary surgeries are always included in deductible expenses.

2. *Business Outlays vs. Personal Outlays*

The other line in the tax code that becomes blurred via the pink tax deduction is the line between a business outlay and a personal outlay. Business consumptions are deductible while personal consumptions are not.¹¹³ As many of the items in the pink tax deductible have traditionally been considered personal consumptions in the tax code,¹¹⁴ these deductions would require reimagining what is a business and personal expense and liberalizing those definitions. Further, looking beyond these definitions completely, expanding categories of items that may be deductible may be required for this tax deduction to be workable.

Many of the items in the deduction are clothing and personal care items which would historically fall in line with personal consumptions which are not deductible.¹¹⁵ However, by liberalizing what it means to be a business or what it means to derive income, some of these expenses could be considered business consumptions. For example, personal care items can be considered business expenditures if the tax code expands businesses to include caretaking under the tax code. As more women take on caregiving responsibilities and are single parents they are more likely to stay inside the home.¹¹⁶ Therefore, if the tax code includes parenting/caregiving as a business,

¹¹² Here, male is specifically defined as a cis-white male.

¹¹³ See Daniel Halperin, *Business Deduction for Personal Living Expenses: A Uniform Approach to an Unsolved Problem*, 122 U. PA. L. REV. 859, 861 (1974).

¹¹⁴ See *id.*

¹¹⁵ See *id.*

¹¹⁶ Leila Schochet, *The Child Care Crisis Is Keeping Women Out of the Workforce*, CTR. FOR AMER. PROGRESS (Mar. 28, 2019), <https://www.americanprogress.org/article/child-care-crisis-keeping-women-workforce/>.

PINK TAX DEDUCTION

the expenses in the pink tax deductible can neatly fall within existing categories of deductible expenses.¹¹⁷

Clothes may also be able to fit under this type of business expense if the clothes being bought are considered “work clothes,” which for caregiving responsibilities will encompass a diverse array of options. Currently, the tax code prohibits suits that may be used for personal purposes to be deducted even if the job requires them.¹¹⁸ Thus, by expanding the definition of business expenses to what we wear to work, even if we can also wear it in our personal time, the pink tax deductible expenses can be included in the existing tax code.

However, not all expenses in the pink tax deduction will be able to neatly fit into a business expense, even under an expanded definition in the current tax code. Therefore, a new category of tax deductibles might be required to implement this solution. This requires expanding what is deductible and reimagining what the tax code is and what it should look like. By including a new category, it would potentially open up a slippery slope to new categories being opened down the line. However, this isn’t necessarily a problem when the deducted expenses perform a societal good or can be analogized to things currently deductible. For example, the expenses under the pink tax deduction can be compared to charitable donations.¹¹⁹ It can be compared to charitable donations because charitable donation deductions were implemented to incentivize good behavior for society; in this case, donating to charity excess income you have.¹²⁰ When thinking expansively, the pink tax deduction, while not necessarily incentivizing certain behavior, has a good impact for society by aiding the gender income inequality gap.

D. Constitutionality

¹¹⁷ See Janet Berry-Johnson, *17 Big Tax Deductions (Write Offs) for Businesses*, BENCH (Jun. 4, 2024), [https://www.bench.co/blog/tax-tips/small-business-tax-deductions-\(including-business-deductions-for-meals,-use-of-your-car,-home-office,-telephone-and-internet-expenses,-etc.\)](https://www.bench.co/blog/tax-tips/small-business-tax-deductions-(including-business-deductions-for-meals,-use-of-your-car,-home-office,-telephone-and-internet-expenses,-etc.)).

¹¹⁸ IRC 274(i).

¹¹⁹ See generally *Charitable contribution deductions*, INTERNAL REVENUE SERV., <https://www.irs.gov/charities-non-profits/charitable-organizations/charitable-contribution-deductions> (last visited May 2, 2025).

¹²⁰ Upamanyu Lahiri & Bennett Buntin, *The 2025 Tax Debate: Charitable Giving*, BIPARTISAN POLY. CTR. (Feb. 21, 2025), <https://bipartisanpolicy.org/explainer/the-2025-tax-debate-charitable-giving/#:~:text=The%20deduction%20was%20established%20in,surplus%20funds%20to%20charitable%20organizations.>

PINK TAX DEDUCTION

Outside of the tax code, the pink tax deduction would also need to be constitutional as it does classify on the basis of sex. Since it is a sex-based distinction it would need to survive the Equal Protection Clause of the Fourteenth Amendment of the Constitution.¹²¹ To be specific, “to withstand constitutional challenge... classifications by gender must serve important governmental objectives and must be substantially related to achievement of these objectives.”¹²² This is an intermediate scrutiny standard so it is not as high of a bar as strict scrutiny but must be more than rational basis.¹²³ So, one must look at the government interest and if the solution is substantially related to that objective.

An important government objective under this standard is required for sex distinctions.¹²⁴ For example, making sure the tax system is fair and accurate has been considered an important government interest.¹²⁵ While the Supreme Court has not gone as far as to say remedying gender inequality is an important government interest, given the flexibility the government has in creating tax laws and enforcing them,¹²⁶ it would likely be considered an important government interest if pursued.

When looking to if it would be substantially related to an important government objective, the Second Circuit used four objectives to draw a conclusion.¹²⁷ These include: “(1) aggregate impact on class; (2) demeaning generalizations; (3) stereotyped assumptions; and (4) flawed use of statistics.”¹²⁸ First, the argument that this deduction would have a disproportionate negative impact on men is true, but the benefits of the tax can also flow to members of both sexes, as men can still buy these products and get the deduction. Thus, it cannot be said that it disadvantages men. Second, as the pink tax deduction does not include plastic surgery or makeup, it does not put women in a box that continues to enforce these harmful stereotypes, which would be a demeaning generalization or stereotyped assumptions.¹²⁹ Last, this tax deduction would be based on how women disproportionately pay more for these items which research has consistently demonstrated.¹³⁰ Once data shows

¹²¹ See *Craig v. Boren*, 429 U.S. 190, 197 (1976).

¹²² *Id.*

¹²³ *Id.*

¹²⁴ See *Manufacturers Hanover Trust Co. v. U.S.*, 775 F.2d 459, 465 (2d Cir. 1985).

¹²⁵ See *id.*

¹²⁶ See *Stokely-Van Camp, Inc. v. U.S.*, 21 Cl.Ct. 731, 740 (1990).

¹²⁷ *Manufacturers Hanover Trust Co. v. U.S.*, 775 F.2d 459, 465 (2d Cir. 1985).

¹²⁸ *Id.*

¹²⁹ See *Parham v. Hughes*, 441 U.S. 347, 354 (1979).

¹³⁰ See generally Feingold, *supra* note 8.

PINK TAX DEDUCTION

that women are no longer being disadvantaged by the pink tax, the tax deduction could go away. Therefore, it is not in violation of being a flawed use of statistics. Given this, the pink tax deduction would be likely seen as a substantially related law to remedy gender inequality.

Conclusion

Women currently are at a financial disadvantage in the U.S. as they face gender inequality in professional, financial, and academic arenas. As women start with less, are paid less, and experience less professional and academic growth, women experience a gender disparity in their income when compared to men. While no solution is one-size-fits-all, the pink tax deduction is a start. It would require reimagining what the tax code looks like, where lines should be drawn, and why. It would also require going outside the bounds of our current system in order to keep more money in women's accounts. While this solution would work, it would not, and should not, work alone. Additional policies should be enacted to stop gender discrimination and stereotyping and erase the implicit biases in our current tax system. The pink tax deduction would operate towards granting relief in the interim, especially given that wealth is a fundamental to accessing all other social, political, professional, and academic freedoms and rights.