

112TH CONGRESS  
1ST SESSION

# H. R. 2003

To amend the Internal Revenue Code of 1986 to impose a tax on transactions in oil futures, options, and swaps, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2011

Mr. DEFAZIO (for himself, Mr. BRALEY of Iowa, and Mr. HOLT) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to impose a tax on transactions in oil futures, options, and swaps, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Taxing Speculators out of the Oil Market Act”.

6 (b) **FINDINGS.**—Congress finds the following:

1           (1) The price of oil has risen and fallen dra-  
2           matically over the last decade without a clear con-  
3           nection to the laws of supply and demand.

4           (2) The price of a barrel of oil predictably  
5           stayed beneath \$20 a barrel of oil for decades. In  
6           the beginning of 1999, the price was under \$10 a  
7           barrel of oil, but since then the oil market has been  
8           plagued by speculation and fluctuated wildly.

9           (3) In late 2004, the price of oil exceeded \$40  
10          a barrel of oil, up 400 percent in 5 years.

11          (4) In late 2007, the price exceeded \$80 a bar-  
12          rel of oil, up 800 percent in 8 years.

13          (5) In mid 2008, the price of oil peaked at  
14          \$145 a barrel, up 1,450 percent in under ten years.

15          (6) The price of oil collapsed in 2008 to just  
16          over \$30 a barrel of oil.

17          (7) By early 2011, the price of oil rebounded to  
18          almost \$115 per barrel of oil.

19          (8) These large price swings coincide with drop  
20          in demand since 2005. In 2010, the United States  
21          consumed 2.1 million barrels of oil per day less than  
22          it did 6 years ago.

23          (9) Many economists have attributed this irra-  
24          tional behavior of the oil market to the large in-  
25          crease in speculative trading in oil derivatives.

1           (10) A transaction tax on speculative trading  
2           can deter short-term speculation which will reduce  
3           the volatility and price of oil.

4 **SEC. 2. TAX ON TRANSACTIONS IN OIL FUTURES, OPTIONS,**  
5 **AND SWAPS.**

6           (a) IN GENERAL.—Chapter 36 of the Internal Rev-  
7           enue Code of 1986 is amended by inserting after sub-  
8           chapter B the following new subchapter:

9           **“Subchapter C—Tax on Transactions in Oil**  
10           **Futures, Options, and Swaps**

“Sec. 4475. Tax on transactions in oil futures, options, and swaps.

11 **“SEC. 4475. TAX ON TRANSACTIONS IN OIL FUTURES, OP-**  
12 **TIONS, AND SWAPS.**

13           “(a) IMPOSITION OF TAX.—

14                   “(1) FUTURES.—There is hereby imposed a tax  
15                   on each covered transaction in an oil futures con-  
16                   tract of 0.01 percent of the value of the futures in-  
17                   struments involved in such transaction.

18                   “(2) OPTIONS.—There is hereby imposed a tax  
19                   on each covered transaction in an oil option of 0.01  
20                   percent of the premium paid on the option for a fu-  
21                   tures instruments involved in such transaction.

22                   “(3) SWAPS.—There is hereby imposed a tax on  
23                   each covered transaction in an oil swap of 0.01 per-  
24                   cent of the value of the underlying assets involved in

1 such transaction for each year until the swap con-  
2 tact maturity.

3 “(b) BY WHOM PAID.—

4 “(1) IN GENERAL.—The tax imposed by this  
5 section shall be paid by—

6 “(A) the trading facility on which the  
7 transaction occurs, or

8 “(B) if such transaction does not occur on  
9 a trading facility, by the buyer of the trans-  
10 action.

11 “(2) WITHHOLDING IF BUYER NOT UNITED  
12 STATES PERSON.—See section 1447 for withholding  
13 by seller if buyer is a foreign person.

14 “(c) EXCEPTION FOR COMMERCIAL TRADERS.—The  
15 tax imposed by this section shall not apply to any trans-  
16 action if—

17 “(1) either party to the transaction is—

18 “(A) classified by the Commodity Futures  
19 Trading Commission as a commercial trader  
20 with respect to oil, or

21 “(B) a financial institution acting on be-  
22 half of such a party (but only if the financial  
23 institution does not at any time acquire owner-  
24 ship of the security), and

1           “(2) the transaction is a bona fide hedging  
2 transaction (within the meaning of section 4a(e) of  
3 the Commodity Exchange Act).

4           “(d) DEFINITIONS.—For purposes of this section—

5           “(1) COVERED TRANSACTION.—The term ‘cov-  
6 ered transaction’ means any purchase or sale of an  
7 oil futures contract, an oil option or oil swap con-  
8 tract if—

9                   “(A) such purchase or sale on a trading fa-  
10                   cility is located in the United States, or

11                   “(B) the purchaser or seller is a United  
12                   States person.

13           “(2) OIL FUTURES CONTRACT.—The term ‘oil  
14 futures contract’ means any contract of sale of oil  
15 for future delivery (within the meaning of the Com-  
16 modity Exchange Act).

17           “(3) OIL OPTION.—The term ‘oil option’ means  
18 any option on an oil futures transaction.

19           “(4) OIL SWAP CONTRACT.—The term ‘oil swap  
20 contract’ means any contract of sale of oil involving  
21 a swap.

22           “(5) TRADING FACILITY.—The term ‘trading  
23 facility’ has the meaning given to such term by the  
24 Commodity Exchange Act.

1 “(e) ADMINISTRATION.—The Secretary shall carry  
2 out this section in consultation with the Commodity Fu-  
3 tures Trading Commission.”.

4 (b) WITHHOLDING.—Subchapter A of chapter 3 of  
5 such Code is amended by adding at the end the following  
6 new section:

7 **“SEC. 1447. WITHHOLDING OF TAX ON TRANSACTIONS IN**  
8 **OIL FUTURES, OPTIONS, AND SWAPS.**

9 “In the case of any acquisition of an oil futures con-  
10 tract, an oil option, or an oil swap contract (as such terms  
11 are defined in section 4475) by a foreign person, the  
12 transferor shall be required to deduct and withhold a tax  
13 equal to the tax which would be imposed on such acquisi-  
14 tion under section 4475 if the transferee were a United  
15 States person.”.

16 (c) CLERICAL AMENDMENTS.—

17 (1) The table of subchapters for chapter 36 of  
18 such Code is amended by inserting after the item re-  
19 lating to subchapter B the following new item:

“SUBCHAPTER C. TAX ON TRANSACTIONS IN OIL FUTURES, OPTIONS, AND  
SWAPS.”.

20 (2) The table of sections for subchapter A of  
21 chapter 3 of such Code is amended by adding at the  
22 end the following new section:

“Sec. 1447. Withholding of tax on transactions in oil futures, options, and  
swaps.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to transactions occurring on or  
3 after 90 days after the date of the enactment of this Act.

4 **SEC. 3. AVAILABILITY TO THE COMMODITY FUTURES TRAD-**  
5 **ING COMMISSION OF REVENUE FROM TAXES**  
6 **ON TRANSACTIONS IN OIL FUTURES, OP-**  
7 **TIONS, AND SWAPS.**

8 The Commodity Exchange Act (7 U.S.C. 1 et seq.)  
9 is amended by inserting after section 10 the following:

10 **“SEC. 11. AVAILABILITY TO THE COMMISSION OF REVENUE**  
11 **FROM TAXES ON TRANSACTIONS IN OIL FU-**  
12 **TURES, OPTIONS, AND SWAPS.**

13 “(a) TAX REVENUE DEPOSITED AS OFFSETTING  
14 COLLECTIONS TO CFTC APPROPRIATIONS ACCOUNT.—  
15 All taxes collected pursuant to sections 4475 and 1447  
16 of the Internal Revenue Code of 1986 for any fiscal year  
17 shall be deposited and credited as offsetting collections to  
18 the account providing appropriations to the Commission.

19 “(b) USE OF UNEXPENDED FUNDS FOR PUBLIC  
20 DEBT REDUCTION.—Any amount credited under para-  
21 graph (1) that remains unexpended as of the end of any  
22 fiscal year shall be transferred to the Treasury and used  
23 to reduce the public debt of the United States.”.

1 **SEC. 4. DUTIES OF COMMODITY FUTURES TRADING COM-**  
2 **MISSION.**

3 The Commodity Futures Trading Commission (re-  
4 ferred to in this section as the “Commission”) shall use  
5 the authority of the Commission, including the emergency  
6 authority of the Commission—

7 (1) to subject each bank holding company (as  
8 defined in section 2(a) of the Bank Holding Com-  
9 pany Act of 1956) that engages in trading subject  
10 to section 4475 of the Internal Revenue Code of  
11 1986, and each hedge fund (as defined in section  
12 13(h)(2) of the Bank Holding Company Act of  
13 1956) that buys or sells a contract of sale of oil for  
14 future delivery (within the meaning of the Com-  
15 modity Exchange Act) for its own account or on be-  
16 half of a third party, to the rules applicable to non-  
17 commercial participants in the markets for the con-  
18 tracts; and

19 (2) to revoke immediately each staff no-action  
20 letter that covers a foreign board of trade that—

21 (A) has established a trading terminal in  
22 the United States for the purpose of selling the  
23 contracts to, or buying the contracts from,  
24 United States investors; and



1 (B) engages in trading subject to such sec-  
2 tion 4475.

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