

112TH CONGRESS
1ST SESSION

H. R. 601

To amend the Internal Revenue Code of 1986 to repeal fossil fuel subsidies for large oil companies.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 2011

Mr. BLUMENAUER (for himself, Mr. MARKEY, Mr. WELCH, Mr. POLIS, Mr. CONYERS, Mr. LANGEVIN, Ms. LEE of California, Mr. MORAN, Mr. HOLT, Mr. HINCHEY, Mr. GRIJALVA, Mr. GEORGE MILLER of California, Mr. STARK, Mr. MCDERMOTT, Mr. PRICE of North Carolina, Mrs. CAPPS, Ms. PINGREE of Maine, and Ms. SUTTON) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to repeal fossil fuel subsidies for large oil companies.

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.**

4 This Act may be cited as the “End Big Oil Tax Sub-
5 sidies Act of 2011”.

1 **SEC. 2. AMORTIZATION OF GEOLOGICAL AND GEO-**
2 **PHYSICAL EXPENDITURES.**

3 (a) IN GENERAL.—Subparagraph (A) of section
4 167(h)(5) of the Internal Revenue Code of 1986 is amend-
5 ed by striking “major integrated oil company” and insert-
6 ing “covered large oil company”.

7 (b) COVERED LARGE OIL COMPANY.—Paragraph (5)
8 of section 167(h) of such Act is amended by redesignating
9 subparagraph (B) as subparagraph (C) and by inserting
10 after subparagraph (A) the following new subparagraph:

11 “(B) COVERED LARGE OIL COMPANY.—
12 For purposes of this paragraph, the term ‘cov-
13 ered large oil company’ means a taxpayer
14 which—

15 “(i) is a major integrated oil com-
16 pany, or

17 “(ii) has gross receipts in excess of
18 \$50,000,000 for the taxable year.

19 For purposes of clause (ii), all persons treated
20 as a single employer under subsections (a) and
21 (b) of section 52 shall be treated as 1 person.”.

22 (c) CONFORMING AMENDMENT.—The heading for
23 paragraph (5) of section 167(h) of such Code is amended
24 by inserting “AND OTHER LARGE TAXPAYERS”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amounts paid or incurred in tax-
3 able years beginning after December 31, 2011.

4 **SEC. 3. PRODUCING OIL AND GAS FROM MARGINAL WELLS.**

5 (a) IN GENERAL.—Section 45I of the Internal Rev-
6 enue Code of 1986 is amended by adding at the end the
7 following new subsection:

8 “(e) EXCEPTION FOR TAXPAYER WHO IS NOT
9 SMALL, INDEPENDENT OIL AND GAS COMPANY.—

10 “(1) IN GENERAL.—Subsection (a) shall not
11 apply to any taxpayer which is not a small, inde-
12 pendent oil and gas company for the taxable year.

13 “(2) AGGREGATION RULE.—For purposes of
14 paragraph (1), all persons treated as a single em-
15 ployer under subsections (a) and (b) of section 52
16 shall be treated as 1 person.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to credits determined for taxable
19 years beginning after December 31, 2011.

20 **SEC. 4. ENHANCED OIL RECOVERY CREDIT.**

21 (a) IN GENERAL.—Section 43 of the Internal Rev-
22 enue Code of 1986 is amended by adding at the end the
23 following new subsection:

24 “(f) EXCEPTION FOR TAXPAYER WHO IS NOT
25 SMALL, INDEPENDENT OIL AND GAS COMPANY.—

1 “(1) IN GENERAL.—Subsection (a) shall not
2 apply to any taxpayer which is not a small, inde-
3 pendent oil and gas company for the taxable year.

4 “(2) AGGREGATION RULE.—For purposes of
5 paragraph (1), all persons treated as a single em-
6 ployer under subsections (a) and (b) of section 52
7 shall be treated as 1 person.”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to amounts paid or incurred in tax-
10 able years beginning after December 31, 2011.

11 **SEC. 5. INTANGIBLE DRILLING AND DEVELOPMENT COSTS**

12 **IN THE CASE OF OIL AND GAS WELLS.**

13 (a) IN GENERAL.—Subsection (c) of section 263 of
14 the Internal Revenue Code of 1986 is amended by adding
15 at the end the following new sentence: “This subsection
16 shall not apply to amounts paid or incurred by a taxpayer
17 in any taxable year in which such taxpayer is not a small,
18 independent oil and gas company, determined by deeming
19 all persons treated as a single employer under subsections
20 (a) and (b) of section 52 as 1 person.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to amounts paid or incurred in tax-
23 able years beginning after December 31, 2011.

1 **SEC. 6. PERCENTAGE DEPLETION.**

2 (a) IN GENERAL.—Section 613A of the Internal Rev-
3 enue Code of 1986 is amended by adding at the end the
4 following new subsection:

5 “(f) EXCEPTION FOR TAXPAYER WHO IS NOT
6 SMALL, INDEPENDENT OIL AND GAS COMPANY.—

7 “(1) IN GENERAL.—This section and section
8 611 shall not apply to any taxpayer which is not a
9 small, independent oil and gas company for the tax-
10 able year.

11 “(2) AGGREGATION RULE.—For purposes of
12 paragraph (1), all persons treated as a single em-
13 ployer under subsections (a) and (b) of section 52
14 shall be treated as 1 person.”.

15 (b) CONFORMING AMENDMENT.—Section 613A(c)(1)
16 of such Code is amended by striking “subsection (d)” and
17 inserting “subsections (d) and (f)”.

18 (c) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to taxable years beginning after
20 December 31, 2011.

21 **SEC. 7. TERTIARY INJECTANTS.**

22 (a) IN GENERAL.—Section 193 of the Internal Rev-
23 enue Code of 1986 is amended by adding at the end the
24 following new subsection:

25 “(d) EXCEPTION FOR TAXPAYER WHO IS NOT
26 SMALL, INDEPENDENT OIL AND GAS COMPANY.—

1 “(1) IN GENERAL.—Subsection (a) shall not
2 apply to any taxpayer which is not a small, inde-
3 pendent oil and gas company for the taxable year.

4 “(2) EXCEPTION FOR QUALIFIED CARBON DI-
5 OXIDE DISPOSED IN SECURE GEOLOGICAL STOR-
6 AGE.—Paragraph (1) shall not apply in the case of
7 any qualified tertiary injectant expense paid or in-
8 curred for any tertiary injectant is qualified carbon
9 dioxide (as defined in section 45Q(b)) which is dis-
10 posed of by the taxpayer in secure geological storage
11 (as defined by section 45Q(d)).

12 “(3) AGGREGATION RULE.—For purposes of
13 paragraph (1), all persons treated as a single em-
14 ployer under subsections (a) and (b) of section 52
15 shall be treated as 1 person.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to expenses incurred after Decem-
18 ber 31, 2011.

19 **SEC. 8. PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.**

20 (a) IN GENERAL.—Paragraph (3) of section 469(c)
21 of the Internal Revenue Code of 1986 is amended by add-
22 ing at the end the following:

23 “(C) EXCEPTION FOR TAXPAYER WHO IS
24 NOT SMALL, INDEPENDENT OIL AND GAS COM-
25 PANY.—

1 “(i) IN GENERAL.—Subparagraph (A)
2 shall not apply to any taxpayer which is
3 not a small, independent oil and gas com-
4 pany for the taxable year.

5 “(ii) AGGREGATION RULE.—For pur-
6 poses of clause (i), all persons treated as
7 a single employer under subsections (a)
8 and (b) of section 52 shall be treated as 1
9 person.”.

10 **SEC. 9. INCOME ATTRIBUTABLE TO DOMESTIC PRODUC-**
11 **TION ACTIVITIES.**

12 (a) IN GENERAL.—Section 199 of the Internal Rev-
13 enue Code of 1986 is amended by adding at the end the
14 following new subsection:

15 “(e) EXCEPTION FOR TAXPAYER WHO IS NOT
16 SMALL, INDEPENDENT OIL AND GAS COMPANY.—Sub-
17 section (a) shall not apply to the income derived from the
18 production, transportation, or distribution of oil, natural
19 gas, or any primary product (within the meaning of sub-
20 section (d)(9)) thereof by any taxpayer which for the tax-
21 able year is an oil and gas company which is not a small,
22 independent oil and gas company.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to taxable years beginning after
25 December 31, 2011.

1 **SEC. 10. PROHIBITION ON USING LAST-IN, FIRST-OUT AC-**
2 **COUNTING FOR MAJOR INTEGRATED OIL**
3 **COMPANIES.**

4 (a) IN GENERAL.—Section 472 of the Internal Rev-
5 enue Code of 1986 is amended by adding at the end the
6 following new subsection:

7 “(h) MAJOR INTEGRATED OIL COMPANIES.—Not-
8 withstanding any other provision of this section, a major
9 integrated oil company (as defined in section 167(h)) may
10 not use the method provided in subsection (b) in
11 inventorying of any goods.”.

12 (b) EFFECTIVE DATE AND SPECIAL RULE.—

13 (1) IN GENERAL.—The amendment made by
14 subsection (a) shall apply to taxable years beginning
15 after December 31, 2011.

16 (2) CHANGE IN METHOD OF ACCOUNTING.—In
17 the case of any taxpayer required by the amendment
18 made by this section to change its method of ac-
19 counting for its first taxable year beginning after the
20 date of the enactment of this Act—

21 (A) such change shall be treated as initi-
22 ated by the taxpayer,

23 (B) such change shall be treated as made
24 with the consent of the Secretary of the Treas-
25 ury, and

1 (C) the net amount of the adjustments re-
2 quired to be taken into account by the taxpayer
3 under section 481 of the Internal Revenue Code
4 of 1986 shall be taken into account ratably over
5 a period (not greater than 8 taxable years) be-
6 ginning with such first taxable year.

7 **SEC. 11. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**

8 **APPLICABLE TO DUAL CAPACITY TAXPAYERS.**

9 (a) **IN GENERAL.**—Section 901 of the Internal Rev-
10 enue Code of 1986 is amended by redesignating subsection
11 (n) as subsection (o) and by inserting after subsection (m)
12 the following new subsection:

13 “(n) **SPECIAL RULES RELATING TO DUAL CAPACITY**
14 **TAXPAYERS.**—

15 “(1) **GENERAL RULE.**—Notwithstanding any
16 other provision of this chapter, any amount paid or
17 accrued by a dual capacity taxpayer to a foreign
18 country or possession of the United States for any
19 period with respect to combined foreign oil and gas
20 income (as defined in section 907(b)(1)) shall not be
21 considered a tax to the extent such amount exceeds
22 the amount (determined in accordance with regula-
23 tions) which would have been required to be paid if
24 the taxpayer were not a dual capacity taxpayer.

1 “(2) DUAL CAPACITY TAXPAYER.—For pur-
2 poses of this subsection, the term ‘dual capacity tax-
3 payer’ means, with respect to any foreign country or
4 possession of the United States, a person who—

5 “(A) is subject to a levy of such country or
6 possession, and

7 “(B) receives (or will receive) directly or
8 indirectly a specific economic benefit (as deter-
9 mined in accordance with regulations) from
10 such country or possession.”.

11 (b) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by
13 this section shall apply to taxes paid or accrued in
14 taxable years beginning after December 31, 2011.

15 (2) CONTRARY TREATY OBLIGATIONS
16 UPHELD.—The amendments made by this section
17 shall not apply to the extent contrary to any treaty
18 obligation of the United States.

○