II

118TH CONGRESS
2D SESSION

S. 5198

To amend the Internal Revenue Code of 1986 to provide for oil and natural gas well remediation and restoration accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2024

Mr. MARSHALL (for himself and Mr. LANKFORD) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to provide for oil and natural gas well remediation and restoration accounts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Energy Producers Performance Enhancement Act''.

SEC. 2. OIL AND NATURAL GAS WELL REMEDIATION AND RESTORATION ACCOUNTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 199B. OIL AND NATURAL GAS REMEDIATION AND RESTORATION ACCOUNTS.

''(a) IN GENERAL.—In the case of an eligible small producer, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year to an oil and natural gas remediation and restoration account for which the eligible small producer is the account beneficiary.

''(b) LIMITATION.—

''(1) IN GENERAL.—The amount allowable as a deduction under subsection (a) to any taxpayer shall not exceed $35,000.

''(2) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 2025, the $35,000 amount in paragraph (1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2024' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

''(B) ROUNDING.—Any increase determined under subparagraph (A) which is not a multiple of $1,000 shall be rounded to the nearest multiple of $1,000.

"(c) ELIGIBLE SMALL PRODUCER.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible small producer' means, with respect to any taxable year, any taxpayer—

"(A) which had no more than 500 full-time equivalent employees (as defined in section 45R(d)) for the preceding taxable year, and

"(B) which—

"(i) is allowed a deduction under section 611 with respect any oil or gas well, and

"(ii) computes all such deductions in accordance with section 613 by reason of the application of subsections (b) or (c) of section 613A.

"(2) AGGREGATION.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as one person for purposes of paragraph (1).

"(d) OIL AND NATURAL GAS REMEDIATION AND RESTORATION ACCOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'oil and natural gas remediation and restoration account' means a trust created or organized in the United States as an oil and natural gas remediation and restoration account exclusively for the purpose of paying the qualified well capping, closing, and remediation costs of the account beneficiary, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a rollover contribution described in subsection (f)(5), no contribution will be accepted—

"(i) unless it is in cash, or

"(ii) to the extent it exceeds the dollar amount in effect under subsection (b).

"(B) The trustee is a bank (as defined in section 408(n)) or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

"(C) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(D) The interest of an account beneficiary in the balance in the account is nonforfeitable.

''(2) QUALIFIED WELL CAPPING, CLOSING, AND REMEDIATION COSTS.—The term 'qualified well capping, closing, and remediation costs' means amounts paid or incurred by an account beneficiary which are related to the capping, closing, and remediation of oil producing, injection, and natural gas wells, including—

''(A) costs associated with meeting Federal, state, or tribal regulatory and permitting requirements associated with capping, closing, and remediating an oil producing, injection, or natural gas well,

''(B) labor costs associated with removing oil producing, injection, and natural gas well infrastructure,

''(C) the cost of materials used to cap, close, and remediate an oil producing, injection, or natural gas well, and

''(D) labor costs associated with the application of materials and the use of equipment to prepare, cap, close, and remediate an oil producing, injection, or natural gas well.

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—An oil and natural gas remediation and restoration account is exempt from taxation under this subtitle. Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT TERMINATIONS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to oil and natural gas remediation and restoration accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified well capping, closing, and remediation costs.

"(f) TREATMENT OF DISTRIBUTIONS.—

"(1) AMOUNTS USED FOR QUALIFIED WELL CAPPING, CLOSING, AND REMEDIATION COSTS.—Any amount paid or distributed out of an oil and natural gas remediation and restoration account which is used exclusively to pay qualified well capping, closing, and remediation costs of any account beneficiary shall not be includible in gross income.

"(2) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED WELL CAPPING, CLOSING AND REMEDI-

ATION COSTS.—Any amount paid or distributed out of an oil and natural gas remediation and restoration account which is not used exclusively to pay the qualified well capping, closing, and remediation costs of the account beneficiary shall be included in the gross income of such beneficiary.

"(3) TREATMENT OF EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Rules similar to the rules of section 223(f)(3) shall apply for purposes of this section.

"(4) ADDITIONAL TAX ON DISTRIBUTIONS NOT USED FOR QUALIFIED WELL CAPPING, CLOSING, AND REMEDIATION COSTS.—The tax imposed by this chapter on the account beneficiary for any taxable year in which there is a payment or distribution from an oil and natural gas remediation and restoration account of such beneficiary which is includible in gross income under paragraph (2) shall be increased by 25 percent of the amount which is so includible.

"(5) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) IN GENERAL.—Paragraph (2) shall not apply to any amount paid or distributed from an oil and natural gas remediation and restoration account to the account beneficiary to the extent the amount received is paid into an oil and natural gas remediation and restoration account for the benefit of such beneficiary not later than the 60th day after the day on which the beneficiary receives the payment or distribution.

"(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from an oil and natural gas remediation and restoration account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from an oil and natural gas remediation and restoration account which was not includible in the individual's gross income because of the application of this paragraph.

"(g) NATURAL GAS.—For purposes of this section, the term 'natural gas' has the meaning given such term under section 613A(e)(2).".

(b) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973(a) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of paragraph (5), by inserting "or" at the end of paragraph (6), and by inserting after paragraph (6) the following new paragraph:

"(7) an oil and natural gas remediation and restoration account (within the meaning of section 199B),".

(2) EXCESS CONTRIBUTIONS.—Section 4973 of such Code is amended by adding at the end the following new subsection:

"(i) EXCESS CONTRIBUTIONS TO OIL AND NATURAL GAS REMEDIATION AND RESTORATION ACCOUNTS.—

"(1) IN GENERAL.—In the case of an oil and natural gas remediation and restoration account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to such account (other than contributions under section 199B(f)(5)) exceeds the contribution limitation determined under section 199B(d)(1)(A)(ii).

"(2) SPECIAL RULE.—For purposes of this subsection, any contribution which is distributed out of the account in a distribution to which section 199B(f)(3) applies shall be treated as an amount not contributed.".

(c) APPLICATION OF PROHIBITED TRANSACTION RULES.—

(1) IN GENERAL.—Section 4975(e)(1) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of subparagraph (F), by redesignating subparagraph (G) as subparagraph (H), and by inserting after subparagraph (F) the following new subparagraph:

"(G) an oil and natural gas remediation and restoration account described in section 199B, or".

(2) SPECIAL RULE.—Section 4975(c) of such Code is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULE FOR OIL AND NATURAL GAS REMEDIATION AND RESTORATION ACCOUNTS.—An individual for whose benefit an oil and natural gas remediation and restoration account (within the meaning of section 199B) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an oil and natural gas remediation and restoration account by reason of the application of section 199B(d)(2) to such account.''.

(d) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

``Sec. 199B. Oil and natural gas remediation and restoration accounts.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

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