

111TH CONGRESS  
2D SESSION

# H. R. 5644

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

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2010

Mr. BLUMENAUER (for himself, Mr. HOLT, Mr. QUIGLEY, Ms. LEE of California, Mr. HINCHEY, Mr. WELCH, Ms. SCHAKOWSKY, Mr. MORAN of Virginia, Ms. GIFFORDS, Ms. PINGREE of Maine, Mr. CARNAHAN, Mr. COHEN, Mr. TONKO, Mr. POLIS of Colorado, and Mr. MCDERMOTT) introduced the following bill; which was referred to the Committee on Ways and Means

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## 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 2010”.

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, 2010.

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, 2010.

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, 2010.

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, 2010.

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(e)(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, 2010.

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, 2010.

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, 2010.

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, 2010.

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. NO EXPENSING FOR REFINERIES PROCESSING LIQ-**  
8           **UID FUEL FROM TAR SANDS, SHALE, OR**  
9           **COAL.**

10       (a) **IN GENERAL.**—Subsection (f) of section 179C of  
11 the Internal Revenue Code of 1986 is amended by striking  
12 “or” at the end of paragraph (1), by striking the period  
13 at the end of paragraph (2) and inserting “, or”, and by  
14 inserting after paragraph (2) the following new paragraph:

15           “(3) which is used to process liquid fuel from  
16       tar sands, shale, or coal (including lignite).”.

17       (b) **EFFECTIVE DATE.**—The amendment made by  
18 subsection (a) shall apply to taxable years beginning after  
19 December 31, 2010.

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