

113TH CONGRESS  
1ST SESSION

# S. 307

To reduce the Federal budget deficit by closing big oil tax loopholes, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2013

Mr. MENENDEZ (for himself, Mr. LAUTENBERG, Mr. DURBIN, Mr. SCHUMER, Ms. STABENOW, Mr. CARDIN, Mrs. McCASKILL, Mrs. GILLIBRAND, Mr. WHITEHOUSE, Mrs. SHAHEEN, Mr. FRANKEN, Mr. REED, Mr. NELSON, Ms. KLOBUCHAR, Mr. BROWN, Mr. LEAHY, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To reduce the Federal budget deficit by closing big oil tax loopholes, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Close Big Oil Tax Loopholes Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CLOSE BIG OIL TAX LOOPHOLES

- Sec. 101. Modifications of foreign tax credit rules applicable to major integrated oil companies which are dual capacity taxpayers.
- Sec. 102. Limitation on section 199 deduction attributable to oil, natural gas, or primary products thereof.
- Sec. 103. Limitation on deduction for intangible drilling and development costs; amortization of disallowed amounts.
- Sec. 104. Limitation on percentage depletion allowance for oil and gas wells.
- Sec. 105. Limitation on deduction for tertiary injectants.
- Sec. 106. Modification of definition of major integrated oil company.

TITLE II—OUTER CONTINENTAL SHELF OIL AND NATURAL GAS

- Sec. 201. Repeal of outer Continental Shelf deep water and deep gas royalty relief.

TITLE III—MISCELLANEOUS

- Sec. 301. Deficit reduction.
- Sec. 302. Budgetary effects.

1       **TITLE I—CLOSE BIG OIL TAX**  
 2                                   **LOOPHOLES**

3   **SEC. 101. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**  
 4                                   **APPLICABLE TO MAJOR INTEGRATED OIL**  
 5                                   **COMPANIES WHICH ARE DUAL CAPACITY**  
 6                                   **TAXPAYERS.**

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

11       “(n) SPECIAL RULES RELATING TO MAJOR INTE-  
 12 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY  
 13 TAXPAYERS.—

14       “(1) GENERAL RULE.—Notwithstanding any  
 15 other provision of this chapter, any amount paid or  
 16 accrued by a dual capacity taxpayer which is a  
 17 major integrated oil company (within the meaning of

1 section 167(h)(5)) to a foreign country or possession  
2 of the United States for any period shall not be con-  
3 sidered a tax—

4 “(A) if, for such period, the foreign coun-  
5 try or possession does not impose a generally  
6 applicable income tax, or

7 “(B) to the extent such amount exceeds  
8 the amount (determined in accordance with reg-  
9 ulations) which—

10 “(i) is paid by such dual capacity tax-  
11 payer pursuant to the generally applicable  
12 income tax imposed by the country or pos-  
13 session, or

14 “(ii) would be paid if the generally ap-  
15 plicable income tax imposed by the country  
16 or possession were applicable to such dual  
17 capacity taxpayer.

18 Nothing in this paragraph shall be construed to  
19 imply the proper treatment of any such amount not  
20 in excess of the amount determined under subpara-  
21 graph (B).

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

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

3           “(B) receives (or will receive) directly or  
4 indirectly a specific economic benefit (as deter-  
5 mined in accordance with regulations) from  
6 such country or possession.

7           “(3) GENERALLY APPLICABLE INCOME TAX.—  
8 For purposes of this subsection—

9           “(A) IN GENERAL.—The term ‘generally  
10 applicable income tax’ means an income tax (or  
11 a series of income taxes) which is generally im-  
12 posed under the laws of a foreign country or  
13 possession on income derived from the conduct  
14 of a trade or business within such country or  
15 possession.

16           “(B) EXCEPTIONS.—Such term shall not  
17 include a tax unless it has substantial applica-  
18 tion, by its terms and in practice, to—

19                   “(i) persons who are not dual capacity  
20 taxpayers, and

21                   “(ii) persons who are citizens or resi-  
22 dents of the foreign country or posses-  
23 sion.”.

24           (b) EFFECTIVE DATE.—

1           (1) IN GENERAL.—The amendments made by  
2 this section shall apply to taxes paid or accrued in  
3 taxable years beginning after the date of the enact-  
4 ment of this Act.

5           (2) CONTRARY TREATY OBLIGATIONS  
6 UPHELD.—The amendments made by this section  
7 shall not apply to the extent contrary to any treaty  
8 obligation of the United States.

9 **SEC. 102. LIMITATION ON SECTION 199 DEDUCTION ATTRIB-**  
10 **UTABLE TO OIL, NATURAL GAS, OR PRIMARY**  
11 **PRODUCTS THEREOF.**

12           (a) DENIAL OF DEDUCTION.—Paragraph (4) of sec-  
13 tion 199(c) of the Internal Revenue Code of 1986 is  
14 amended by adding at the end the following new subpara-  
15 graph:

16                   “(E) SPECIAL RULE FOR CERTAIN OIL  
17 AND GAS INCOME.—In the case of any taxpayer  
18 who is a major integrated oil company (within  
19 the meaning of section 167(h)(5)) for the tax-  
20 able year, the term ‘domestic production gross  
21 receipts’ shall not include gross receipts from  
22 the production, refining, processing, transpor-  
23 tation, or distribution of oil, gas, or any pri-  
24 mary product (within the meaning of subsection  
25 (d)(9)) thereof.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2013.

4 **SEC. 103. LIMITATION ON DEDUCTION FOR INTANGIBLE**  
5 **DRILLING AND DEVELOPMENT COSTS; AMOR-**  
6 **TIZATION OF DISALLOWED AMOUNTS.**

7 (a) IN GENERAL.—Section 263(c) of the Internal  
8 Revenue Code of 1986 is amended to read as follows:

9 “(c) INTANGIBLE DRILLING AND DEVELOPMENT  
10 COSTS IN THE CASE OF OIL AND GAS WELLS AND GEO-  
11 THERMAL WELLS.—

12 “(1) IN GENERAL.—Notwithstanding subsection  
13 (a), and except as provided in subsection (i), regula-  
14 tions shall be prescribed by the Secretary under this  
15 subtitle corresponding to the regulations which  
16 granted the option to deduct as expenses intangible  
17 drilling and development costs in the case of oil and  
18 gas wells and which were recognized and approved  
19 by the Congress in House Concurrent Resolution 50,  
20 Seventy-ninth Congress. Such regulations shall also  
21 grant the option to deduct as expenses intangible  
22 drilling and development costs in the case of wells  
23 drilled for any geothermal deposit (as defined in sec-  
24 tion 613(e)(2)) to the same extent and in the same  
25 manner as such expenses are deductible in the case

1 of oil and gas wells. This subsection shall not apply  
2 with respect to any costs to which any deduction is  
3 allowed under section 59(e) or 291.

4 “(2) EXCLUSION.—

5 “(A) IN GENERAL.—This subsection shall  
6 not apply to amounts paid or incurred by a tax-  
7 payer in any taxable year in which such tax-  
8 payer is a major integrated oil company (within  
9 the meaning of section 167(h)(5)).

10 “(B) AMORTIZATION OF AMOUNTS NOT AL-  
11 LOWABLE AS DEDUCTIONS UNDER SUBPARA-  
12 GRAPH (A).—The amount not allowable as a de-  
13 duction for any taxable year by reason of sub-  
14 paragraph (A) shall be allowable as a deduction  
15 ratably over the 60-month period beginning  
16 with the month in which the costs are paid or  
17 incurred. For purposes of section 1254, any de-  
18 duction under this subparagraph shall be treat-  
19 ed as a deduction under this subsection.”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 this section shall apply to amounts paid or incurred in tax-  
22 able years beginning after December 31, 2013.

1 **SEC. 104. LIMITATION ON PERCENTAGE DEPLETION AL-**  
2 **LOWANCE FOR OIL AND GAS WELLS.**

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

6 “(f) APPLICATION WITH RESPECT TO MAJOR INTE-  
7 GRATED OIL COMPANIES.—In the case of any taxable year  
8 in which the taxpayer is a major integrated oil company  
9 (within the meaning of section 167(h)(5)), the allowance  
10 for percentage depletion shall be zero.”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 this section shall apply to taxable years beginning after  
13 December 31, 2013.

14 **SEC. 105. LIMITATION ON DEDUCTION FOR TERTIARY**  
15 **INJECTANTS.**

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

19 “(d) APPLICATION WITH RESPECT TO MAJOR INTE-  
20 GRATED OIL COMPANIES.—

21 “(1) IN GENERAL.—This section shall not apply  
22 to amounts paid or incurred by a taxpayer in any  
23 taxable year in which such taxpayer is a major inte-  
24 grated oil company (within the meaning of section  
25 167(h)(5)).



1           “(2) AMORTIZATION OF AMOUNTS NOT ALLOW-  
2           ABLE AS DEDUCTIONS UNDER PARAGRAPH (1).—The  
3           amount not allowable as a deduction for any taxable  
4           year by reason of paragraph (1) shall be allowable  
5           as a deduction ratably over the 60-month period be-  
6           ginning with the month in which the costs are paid  
7           or incurred.”.

8           (b) EFFECTIVE DATE.—The amendment made by  
9           this section shall apply to amounts paid or incurred in tax-  
10          able years beginning after December 31, 2013.

11       **SEC. 106. MODIFICATION OF DEFINITION OF MAJOR INTE-**  
12                               **GRATED OIL COMPANY.**

13          (a) IN GENERAL.—Paragraph (5) of section 167(h)  
14          of the Internal Revenue Code of 1986 is amended by add-  
15          ing at the end the following new subparagraph:

16                       “(C) CERTAIN SUCCESSORS IN INTER-  
17                       EST.—For purposes of this paragraph, the term  
18                       ‘major integrated oil company’ includes any  
19                       successor in interest of a company that was de-  
20                       scribed in subparagraph (B) in any taxable  
21                       year, if such successor controls more than 50  
22                       percent of the crude oil production or natural  
23                       gas production of such company.”.

24          (b) CONFORMING AMENDMENTS.—

1           (1) IN GENERAL.—Subparagraph (B) of section  
2           167(h)(5) of the Internal Revenue Code of 1986 is  
3           amended by inserting “except as provided in sub-  
4           paragraph (C),” after “For purposes of this para-  
5           graph,”.

6           (2) TAXABLE YEARS TESTED.—Clause (iii) of  
7           section 167(h)(5)(B) of such Code is amended—

8                   (A) by striking “does not apply by reason  
9                   of paragraph (4) of section 613A(d)” and in-  
10                  serting “did not apply by reason of paragraph  
11                  (4) of section 613A(d) for any taxable year  
12                  after 2004”, and

13                   (B) by striking “does not apply” in sub-  
14                  clause (II) and inserting “did not apply for the  
15                  taxable year”.

16           (c) EFFECTIVE DATE.—The amendments made by  
17           this section shall apply to taxable years beginning after  
18           December 31, 2013.

## 19   **TITLE II—OUTER CONTINENTAL** 20   **SHELF OIL AND NATURAL GAS**

### 21   **SEC. 201. REPEAL OF OUTER CONTINENTAL SHELF DEEP** 22                   **WATER AND DEEP GAS ROYALTY RELIEF.**

23           (a) IN GENERAL.—Sections 344 and 345 of the En-  
24           ergy Policy Act of 2005 (42 U.S.C. 15904, 15905) are  
25           repealed.

1 (b) ADMINISTRATION.—The Secretary of the Interior  
2 shall not be required to provide for royalty relief in the  
3 lease sale terms beginning with the first lease sale held  
4 on or after the date of enactment of this Act for which  
5 a final notice of sale has not been published.

## 6 **TITLE III—MISCELLANEOUS**

### 7 **SEC. 301. DEFICIT REDUCTION.**

8 The net amount of any savings realized as a result  
9 of the enactment of this Act and the amendments made  
10 by this Act (after any expenditures authorized by this Act  
11 and the amendments made by this Act) shall be deposited  
12 in the Treasury and used for Federal budget deficit reduc-  
13 tion or, if there is no Federal budget deficit, for reducing  
14 the Federal debt in such manner as the Secretary of the  
15 Treasury considers appropriate.

### 16 **SEC. 302. BUDGETARY EFFECTS.**

17 The budgetary effects of this Act, for the purpose of  
18 complying with the Statutory Pay-As-You-Go Act of 2010,  
19 shall be determined by reference to the latest statement  
20 titled “Budgetary Effects of PAYGO Legislation” for this  
21 Act, submitted for printing in the Congressional Record  
22 by the Chairman of the Senate Budget Committee, pro-  
23 vided that such statement has been submitted prior to the  
24 vote on passage.

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