

116TH CONGRESS  
2D SESSION

# H. R. 8411

To amend the Internal Revenue Code of 1986 to repeal fossil fuel subsidies for oil companies, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2020

Mr. BLUMENAUER (for himself and Mr. CASTEN of Illinois) 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 oil companies, 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.**

4 This Act may be cited as the “End Oil and Gas Tax  
5 Subsidies Act of 2020”.

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

8 (a) IN GENERAL.—Section 167(h) of the Internal  
9 Revenue Code of 1986 is amended—

1           (1) by striking “24-month period” in paragraph  
2           (1) and inserting “7-year period”, and  
3           (2) by striking paragraph (5).

4           (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall apply to amounts paid or incurred in tax-  
6 able years beginning after December 31, 2020.

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

8           (a) IN GENERAL.—Subpart D of part IV of sub-  
9 chapter A of chapter 1 of the Internal Revenue Code of  
10 1986 is amended by striking section 45I (and by striking  
11 the item relating to such section in the table of sections  
12 for such subpart).

13           (b) CONFORMING AMENDMENT.—Section 38(b) of  
14 such Code is amended by striking paragraph (19).

15           (c) EFFECTIVE DATE.—The amendment made by  
16 subsection (a) shall apply to credits determined for taxable  
17 years beginning after December 31, 2020.

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

19           (a) IN GENERAL.—Subpart D of part IV of sub-  
20 chapter A of chapter 1 of the Internal Revenue Code of  
21 1986 is amended by striking section 43 (and by striking  
22 the item relating to such section in the table of sections  
23 for such subpart).

24           (b) CONFORMING AMENDMENT.—Section 38(b) of  
25 such Code is amended by striking paragraph (6).

1 (c) 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, 2020.

4 **SEC. 5. INTANGIBLE DRILLING AND DEVELOPMENT COSTS**  
5 **IN THE CASE OF OIL AND GAS WELLS.**

6 (a) IN GENERAL.—Subsection (c) of section 263 of  
7 the Internal Revenue Code of 1986 is amended by adding  
8 at the end the following new sentence: “This subsection  
9 shall not apply to amounts paid or incurred by a taxpayer  
10 with respect to an oil or gas well after December 31,  
11 2020.”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 this section shall apply to amounts paid or incurred in tax-  
14 able years beginning after December 31, 2020.

15 **SEC. 6. REPEAL OF PERCENTAGE DEPLETION FOR OIL AND**  
16 **GAS WELLS.**

17 (a) IN GENERAL.—Part I of subchapter I of chapter  
18 1 of the Internal Revenue Code of 1986 is amended by  
19 striking section 613A (and the table of sections of such  
20 part is amended by striking the item relating to such sec-  
21 tion).

22 (b) CONFORMING AMENDMENTS.—

23 (1) Subsection (d) of section 45H of such Code  
24 is amended—

1 (A) by striking “For purposes of this sec-  
2 tion” and inserting the following:

3 “(1) IN GENERAL.—For purposes of this sec-  
4 tion”,

5 (B) by striking “(within the meaning of  
6 section 613A(d)(3))”, and

7 (C) by adding at the end the following new  
8 paragraph:

9 “(2) RELATED PERSON.—For purposes of this  
10 subsection, a person is a related person with respect  
11 to the taxpayer if a significant ownership interest in  
12 either the taxpayer or such person is held by the  
13 other, or if a third person has a significant owner-  
14 ship interest in both the taxpayer and such person.  
15 For purposes of the preceding sentence, the term  
16 ‘significant ownership interest’ means—

17 “(A) with respect to any corporation, 5  
18 percent or more in value of the outstanding  
19 stock of such corporation,

20 “(B) with respect to a partnership, 5 per-  
21 cent or more interest in the profits or capital of  
22 such partnership, and

23 “(C) with respect to an estate or trust, 5  
24 percent or more of the beneficial interests in  
25 such estate or trust.

1 For purposes of determining a significant ownership  
2 interest, an interest owned by or for a corporation,  
3 partnership, trust, or estate shall be considered as  
4 owned directly both by itself and proportionately by  
5 its shareholders, partners, or beneficiaries, as the  
6 case may be.”.

7 (2) Section 57(a)(1) of such Code is amended  
8 by striking the last sentence.

9 (3) Section 291(b)(4) of such Code is amended  
10 by adding at the end the following: “Any reference  
11 in the preceding sentence to section 613A shall be  
12 treated as a reference to such section as in effect  
13 prior to the date of the enactment of the End Oil  
14 and Gas Tax Subsidies Act of 2020.”.

15 (4) Section 613(d) of such Code is amended by  
16 striking “Except as provided in section 613A, in the  
17 case of” and inserting “In the case of”.

18 (5) Section 613(e) of such Code is amended—

19 (A) by striking “or section 613A” in para-  
20 graph (2), and

21 (B) by striking “any amount described in  
22 section 613A(d)(5)” in paragraph (3) and in-  
23 serting “any lease bonus, advance royalty, or  
24 other amount payable without regard to produc-  
25 tion from property”.

1 (6) Section 705(a) of such Code is amended—

2 (A) by inserting “and” at the end of para-  
3 graph (1)(C),

4 (B) by striking “; and” at the end of para-  
5 graph (2)(B) and inserting a period, and

6 (C) by striking paragraph (3).

7 (7) Section 993(c)(2)(C) of such Code is  
8 amended by striking “section 613 or 613A” and in-  
9 serting “section 613 (determined without regard to  
10 subsection (d) thereof)”.

11 (8) Section 1202(e)(3)(D) of such Code is  
12 amended by striking “section 613 or 613A” and in-  
13 serting “section 613 (determined without regard to  
14 subsection (d) thereof)”.

15 (9) Section 1367(a)(2) of such Code is amended  
16 by inserting “and” at the end of subparagraph (C),  
17 by striking “, and” at the end of subparagraph (D)  
18 and inserting a period, and by striking subparagraph  
19 (E).

20 (10) Section 1446(c) of such Code is amended  
21 by striking paragraph (2) and by redesignating  
22 paragraph (3) as paragraph (2).

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to property placed in service after  
25 December 31, 2020.

1 **SEC. 7. REPEAL OF DEDUCTION FOR TERTIARY**  
2 **INJECTANTS.**

3 (a) **IN GENERAL.**—Part VI of subchapter B of chap-  
4 ter 1 of the Internal Revenue Code of 1986 is amended  
5 by striking section 193 (and the table of sections of such  
6 subpart is amended by striking the item relating to such  
7 section).

8 (b) **EFFECTIVE DATE.**—The amendments made by  
9 this section shall apply to taxable years beginning after  
10 December 31, 2020.

11 **SEC. 8. REPEAL OF EXCEPTION TO PASSIVE LOSS LIMITA-**  
12 **TIONS FOR WORKING INTERESTS IN OIL AND**  
13 **GAS PROPERTIES.**

14 (a) **IN GENERAL.**—Section 469(c)(3) of the Internal  
15 Revenue Code of 1986 is amended by adding at the end  
16 the following new subparagraph:

17 “(C) **TERMINATION.**—Subparagraph (A)  
18 shall not apply with respect to any taxable year  
19 beginning after the date of the enactment of  
20 this Act.”.

21 (b) **EFFECTIVE DATE.**—The amendment made by  
22 this section shall apply to taxable years beginning after  
23 December 31, 2020.

1 **SEC. 9. DEDUCTION FOR QUALIFIED BUSINESS INCOME**  
2 **NOT ALLOWED WITH RESPECT TO OIL AND**  
3 **GAS ACTIVITIES.**

4 (a) **IN GENERAL.**—Section 199A(c)(3)(B) of the In-  
5 ternal Revenue Code of 1986 is amended by redesignating  
6 clause (vii) as clause (viii), and by inserting after clause  
7 (vi) the following new clause:

8 “(vii) The production, refining, proc-  
9 essing, transportation, or distribution of  
10 oil, gas, or any primary product thereof.”.

11 (b) **EFFECTIVE DATE.**—The amendments made by  
12 this section shall apply to taxable years beginning after  
13 December 31, 2020.

14 **SEC. 10. PROHIBITION ON USING LAST-IN, FIRST-OUT AC-**  
15 **COUNTING FOR OIL AND GAS COMPANIES.**

16 (a) **IN GENERAL.**—Section 472 of the Internal Rev-  
17 enue Code of 1986 is amended by adding at the end the  
18 following new subsection:

19 “(h) **OIL AND GAS COMPANIES.**—

20 “(1) **IN GENERAL.**—Notwithstanding any other  
21 provision of this section, a major integrated oil com-  
22 pany may not use the method provided in subsection  
23 (b) in inventorying of any goods.

24 “(2) **MAJOR INTEGRATED OIL COMPANY.**—For  
25 purposes of this subsection, the term ‘major inte-



1       grated oil company’ means, with respect to any tax-  
2       able year, a producer of crude oil—

3               “(A) which has an average daily worldwide  
4       production of crude oil of at least 500,000 bar-  
5       rels for the taxable year,

6               “(B) which has gross receipts in excess of  
7       \$1,000,000,000 for the taxable year, and

8               “(C) the average daily refinery runs of the  
9       taxpayer and related persons for the taxable  
10      year exceed 75,000 barrels.

11      “(3) SPECIAL RULES.—

12              “(A) CRUDE PRODUCTION AND GROSS RE-  
13      CEIPTS.—For purposes of subparagraphs (A)  
14      and (B) of paragraph (2)—

15              “(i) CONTROLLED GROUPS AND COM-  
16      MON CONTROL.—All persons treated as a  
17      single employer under subsections (a) and  
18      (b) of section 52 shall be treated as 1 per-  
19      son.

20              “(ii) SHORT TAXABLE YEARS.—In  
21      case of a short taxable year, the rule under  
22      section 448(c)(3)(B) shall apply.

23              “(B) AVERAGE DAILY REFINERY RUNS.—  
24      For purposes of paragraph (2)(C)—

1           “(i) IN GENERAL.—The average daily  
2 refinery runs for any taxable year shall be  
3 determined by dividing the aggregate refin-  
4 ery runs for the taxable year by the num-  
5 ber of days in the taxable year.

6           “(ii) RELATED PERSONS.—A person  
7 is a related person with respect to the tax-  
8 payer if a significant ownership interest in  
9 either the taxpayer or such person is held  
10 by the other, or if a third person has a sig-  
11 nificant ownership interest in both the tax-  
12 payer and such person.

13           “(iii) SIGNIFICANT OWNERSHIP IN-  
14 TEREST.—For purposes of clause (ii), the  
15 term ‘significant ownership interest’  
16 means—

17           “(I) with respect to any corpora-  
18 tion, 15 percent or more in value of  
19 the outstanding stock of such corpora-  
20 tion,

21           “(II) with respect to a partner-  
22 ship, 15 percent or more interest in  
23 the profits or capital of such partner-  
24 ship, and

1                   “(III) with respect to an estate  
2                   or trust, 15 percent or more of the  
3                   beneficial interests in such estate or  
4                   trust.

5                   For purposes of determining a significant  
6                   ownership interest, an interest owned by or  
7                   for a corporation, partnership, trust, or es-  
8                   tate shall be considered as owned directly  
9                   both by itself and proportionately by its  
10                  shareholders, partners, or beneficiaries, as  
11                  the case may be.”.

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, 2020.

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, 2020.

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.

19          **SEC. 12. CLARIFICATION OF TAR SANDS AS CRUDE OIL FOR**  
 20                  **EXCISE TAX PURPOSES.**

21                  (a) IN GENERAL.—Paragraph (1) of section 4612(a)  
 22                  of the Internal Revenue Code of 1986 is amended to read  
 23                  as follows:

24                          “(1) CRUDE OIL.—The term ‘crude oil’ includes  
 25                          crude oil condensates, natural gasoline, any bitumen

1 or bituminous mixture, any oil derived from a bitu-  
2 men or bituminous mixture (including oil derived  
3 from tar sands), and any oil derived from kerogen-  
4 bearing sources (including oil derived from oil  
5 shale).”.

6 (b) REGULATORY AUTHORITY TO ADDRESS OTHER  
7 TYPES OF CRUDE OIL AND PETROLEUM PRODUCTS.—  
8 Subsection (a) of section 4612 of such Code is amended  
9 by adding at the end the following new paragraph:

10 “(10) REGULATORY AUTHORITY TO ADDRESS  
11 OTHER TYPES OF CRUDE OIL AND PETROLEUM  
12 PRODUCTS.—Under such regulations as the Sec-  
13 retary may prescribe, the Secretary may include as  
14 crude oil or as a petroleum product subject to tax  
15 under section 4611, any fuel feedstock or finished  
16 fuel product customarily transported by pipeline,  
17 vessel, railcar, or tanker truck if the Secretary deter-  
18 mines that—

19 “(A) the classification of such fuel feed-  
20 stock or finished fuel product is consistent with  
21 the definition of oil under the Oil Pollution Act  
22 of 1990, and

23 “(B) such fuel feedstock or finished fuel  
24 product is produced in sufficient commercial

1 quantities as to pose a significant risk of haz-  
2 ard in the event of a discharge.”.

3 (c) TECHNICAL AMENDMENT.—Paragraph (2) of sec-  
4 tion 4612(a) of such Code is amended by striking “from  
5 a well located”.

6 (d) EFFECTIVE DATE.—The amendments made by  
7 this section shall take effect on the date of the enactment  
8 of this Act.

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