H. R. 7061

To amend the Internal Revenue Code of 1986 to impose a windfall profits excise tax on crude oil and to rebate the tax collected back to individual taxpayers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2022

Mr. KHANNA 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 impose a windfall profits excise tax on crude oil and to rebate the tax collected back to individual taxpayers, 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 “Big Oil Windfall Prof-
5 its Tax Act”.

SEC. 2. WINDFALL PROFITS TAX.

(a) IN GENERAL.—Subtitle E of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new chapter:

"CHAPTER 56—WINDFALL PROFITS ON CRUDE OIL"

"Sec. 5896. Imposition of tax."
"Sec. 5897. Definitions and special rules.

"SEC. 5896. IMPOSITION OF TAX.

“(a) IN GENERAL.—In addition to any other tax imposed under this title, in each calendar quarter there is hereby imposed on any covered taxpayer an excise tax at the rate determined under subsection (b) on—

“(1) each barrel of taxable crude oil extracted by the taxpayer within the United States and removed from the property of such taxpayer during the calendar quarter, and

“(2) each barrel of taxable crude oil entered into the United States during the calendar quarter by the taxpayer for consumption, use, or warehousing.

“(b) RATE OF TAX.—

“(1) IN GENERAL.—The rate of tax imposed by this section on any barrel of taxable crude oil for any calendar quarter is the product of—

“(A) 50 percent, and
“(B) the excess (if any) of—

“(i) the average price of a barrel of Brent crude oil over the covered calendar quarter, and

“(ii) the average price of a barrel of Brent crude oil over the period beginning on January 1, 2015, and ending on December 31, 2019.

“(2) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—In the case of a calendar quarter beginning in any taxable year beginning after 2022, the amount determined under paragraph (1)(B)(ii) 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 ‘2021’ for ‘2016’ in subparagraph (A)(ii) thereof.

“(B) ROUNDFING.—If any dollar amount, after being increased under subparagraph (A), is not a multiple of $0.50, such dollar amount shall be rounded to the next lowest multiple of $0.01.
“(c) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by subsection (a) shall be the same fraction of the amount of such tax imposed on the whole barrel.

“SEC. 5897. DEFINITIONS AND SPECIAL RULES.

“(a) DEFINITIONS.—For purposes of this chapter—

“(1) COVERED TAXPAYER.—

“(A) IN GENERAL.—The term ‘covered taxpayer’ means, with respect to any calendar quarter, any taxpayer if—

“(i) the average daily number of barrels of taxable crude oil extracted and imported by the taxpayer for calendar year 2019 exceeded 300,000 barrels, or

“(ii) the average daily number of barrels of taxable crude oil extracted and imported by the taxpayer for the calendar quarter exceeds 300,000.

“(B) AGGREGATION RULES.—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).
“(2) Taxable crude oil.—The term ‘taxable crude oil’ includes crude oil, crude oil condensates, and natural gasoline.

“(3) Barrel.—The term ‘barrel’ means 42 United States gallons.

“(4) United States.—The term ‘United States’ has the same meaning given such term under section 4612.

“(b) Withholding and deposit of tax.—The Secretary shall provide such rules as are necessary for the withholding and deposit of the tax imposed under section 5896 on any taxable crude oil.

“(c) Records and information.—Each taxpayer liable for tax under section 5896 shall keep such records, make such returns, and furnish such information (to the Secretary and to other persons having an interest in the taxable crude oil) with respect to such oil as the Secretary may by regulations prescribe.

“(d) Return of windfall profit tax.—The Secretary shall provide for the filing and the time of such filing of the return of the tax imposed under section 5896.

“(e) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter.”.
(b) Clerical Amendment.—The table of chapters for subtitle E of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“CHAPTER 56. WINDFALL PROFIT ON CRUDE OIL.”

c) Effective Date.—The amendments made by this section shall apply to crude oil removed or entered after the date of the enactment of this Act, in calendar quarters ending after such date.

SEC. 3. GASOLINE PRICE REBATES.

(a) In General.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 6433. GASOLINE PRICE REBATES.

“(a) In General.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by subtitle A for each taxable year beginning after the date of the enactment of the Big Oil Windfall Profits Tax Act, an amount equal to the sum of the gasoline price rebate amount for calendar quarters beginning in such taxable year.

“(b) Gasoline Price Rebate Amount.—For purposes of this section—

“(1) In General.—The term ‘gasoline price rebate amount’ means, with respect to any taxpayer for any calendar quarter beginning in a taxable year, an amount determined by the Secretary not later
than 30 days after the end of such calendar quarter
taking into account the number of eligible individ-
uals and the amount of revenues in the Protect Con-
sumers from Gas Hikes Fund resulting from the tax
imposed by section 5896 for the preceding calendar
quarter.

“(2) SPECIAL RULE FOR JOINT RETURNS.—In
the case of an eligible individual filing a joint return,
the gasoline price rebate amount shall be 150 per-
cent of the amount determined under paragraph (1)
with respect to other taxpayers.

“(3) LIMITATION BASED ON ADJUSTED GROSS
INCOME.—The amount of the credit allowed by sub-
section (a) (determined without regard to this sub-
section and subsection (e)) shall be reduced (but not
below zero) by 5 percent of so much of the eligible
individual’s adjusted gross income as exceeds—

“(A) $150,000 in the case of a joint re-
turn,

“(B) $112,500 in the case of a head of
household, and

“(C) $75,000 in any other case.

“(e) ELIGIBLE INDIVIDUAL.—For purposes of this
section, the term ‘eligible individual’ means any individual
other than—
“(1) any nonresident alien individual,

“(2) any individual who is a dependent of another taxpayer for a taxable year beginning in the calendar year in which the individual’s taxable year begins, and

“(3) an estate or trust.

“(d) DEFINITIONS AND SPECIAL RULES.—

“(1) DEPENDENT DEFINED.—For purposes of this section, the term ‘dependent’ has the meaning given such term by section 152.

“(2) IDENTIFICATION NUMBER REQUIREMENT.—

“(A) IN GENERAL.—In the case of a return other than a joint return, the gasoline price rebate amount in subsection (b)(1) shall be treated as being zero unless the taxpayer includes the valid identification number of the taxpayer on the return of tax for the taxable year.

“(B) JOINT RETURNS.—In the case of a joint return, the gasoline price rebate amount in subsection (b)(1) shall be treated as being—

“(i) 50 percent of the amount otherwise determined without regard to this paragraph if the valid identification num-
ber of only 1 spouse is included on the return of tax for the taxable year, and

“(ii) zero if the valid identification number of neither spouse is so included.

“(C) VALID IDENTIFICATION NUMBER.—

For purposes of this paragraph, the term ‘valid identification number’ means a social security number issued to an individual by the Social Security Administration on or before the due date for filing the return for the taxable year.

“(D) SPECIAL RULE FOR MEMBERS OF THE ARMED FORCES.—Subparagraph (B) shall not apply in the case where at least 1 spouse was a member of the Armed Forces of the United States at any time during the taxable year and the valid identification number of at least 1 spouse is included on the return of tax for the taxable year.

“(E) COORDINATION WITH CERTAIN ADVANCE PAYMENTS.—In the case of any payment determined pursuant to subsection (f)(6), a valid identification number shall be treated for purposes of this paragraph as included on the taxpayer’s return of tax if such valid identifica-
tion number is available to the Secretary as de-
scribed in such subsection.

“(F) MATHEMATICAL OR CLERICAL ERROR
AUTHORITY.—Any omission of a correct valid
identification number required under this para-
graph shall be treated as a mathematical or
clerical error for purposes of applying section
6213(g)(2) to such omission.

“(3) CREDIT TREATED AS REFUNDABLE.—The
credit allowed by subsection (a) shall be treated as
allowed by subpart C of part IV of subchapter A of
chapter 1.

“(e) COORDINATION WITH ADVANCE REFUNDS OF
CREDIT.—

“(1) REDUCTION OF REFUNDABLE CREDIT.—
The amount of the credit which would (but for this
paragraph) be allowable under subsection (a) for any
taxable year shall be reduced (but not below zero) by
the aggregate refunds and credits made or allowed
to the taxpayer (or, except as otherwise provided by
the Secretary, any dependent of the taxpayer) under
subsection (f) for such taxable year. Any failure to
so reduce the credit shall be treated as arising out
of a mathematical or clerical error and assessed ac-
cording to section 6213(b)(1).
“(2) JOINT RETURNS.—Except as otherwise provided by the Secretary, in the case of a refund or credit made or allowed under subsection (f) with respect to a joint return, half of such refund or credit shall be treated as having been made or allowed to each individual filing such return.

“(f) ADVANCE REFUNDS AND CREDITS.—

“(1) IN GENERAL.—Subject to paragraphs (5) and (6), for any rebate taxable year, each individual who was an eligible individual for the applicable taxable year shall be treated as having made a payment against the tax imposed by chapter 1 for such applicable taxable year in an amount equal to advance refund amount for such rebate taxable year.

“(2) ADVANCE REFUND AMOUNT.—

“(A) IN GENERAL.—For purposes of paragraph (1), the advance refund amount for any rebate taxable year is the amount that would allowed as a credit under this section for the applicable taxable year if this section (other than subsection (e) and this subsection) were applied to such applicable taxable year (without regard to any effective date) using the gasoline price rebate amount for the refund taxable year.
“(B) TREATMENT OF DECEASED INDIVIDUALS.—For purposes of determining the advanced refund amount—

“(i) any individual who was deceased before the first day of the rebate taxable year shall be treated for purposes of applying subsection (d)(2) in the same manner as if the valid identification number of such person was not included on the return of tax for the applicable taxable year (except that subparagraph (D) thereof shall not apply), and

“(ii) notwithstanding clause (i), in the case of a joint return with respect to which only 1 spouse is deceased before the first day of the rebate taxable year, such deceased spouse was a member of the Armed Forces of the United States at any time during the applicable taxable year, and the valid identification number of such deceased spouse is included on the return of tax for the applicable taxable year, the valid identification number of 1 (and only 1) spouse shall be treated as included on the return of tax for the applicable taxable
year for purposes of applying subsection (d)(2)(B) with respect to such joint return.

“(3) Timing and manner of payments.—The Secretary shall, subject to the provisions of this title, refund or credit any overpayment attributable to this section and determined with respect to any calendar quarter not later than 90 days after the end of such calendar quarter. No refund or credit shall be made or allowed under this subsection with respect to any applicable taxable year after the last day of the rebate taxable year.

“(4) No interest.—No interest shall be allowed on any overpayment attributable to this subsection.

“(5) Application to individuals who have filed a return of tax for the year after the applicable taxable year.—

“(A) Application to returns filed at time of initial determination.—If, at the time of any determination made pursuant to paragraph (3), the individual referred to in paragraph (1) has filed a return of tax for the individual’s first taxable year beginning after the applicable taxable year, paragraph (1) shall be applied with respect to such individual by
substituting ‘taxable year following the applicable taxable year’ for ‘applicable taxable year’.

“(B) ADDITIONAL PAYMENT.—

“(i) IN GENERAL.—In the case of any individual who files, before the additional payment determination date, a return of tax for such individual’s first taxable year beginning after the applicable taxable year, the Secretary shall make a payment (in addition to any payment made under paragraph (1)) to such individual equal to the excess (if any) of—

“(I) the amount which would be determined under paragraph (1) (after the application of subparagraph (A)) by applying paragraph (1) as of the additional payment determination date, over

“(II) the amount of any payment made with respect to such individual under paragraph (1).

“(ii) ADDITIONAL PAYMENT DETERMINATION DATE.—The term ‘additional payment determination date’ means the earlier of—
“(1) the date which is 90 days after the date specified in section 6072(a) with respect to returns for the taxable year following the applicable taxable year (determined after taking into account any period disregarded under section 7508A if such disregard applies to substantially all returns for such taxable year), or

“(II) September 1 of the calendar year following the applicable taxable year.

“(6) Application to certain individuals who have not filed a return of tax for the preceding two years.—In the case of any individual who, at the time of any determination made pursuant to paragraph (3), has filed a tax return for neither the applicable taxable year nor for the year following the applicable taxable year, the Secretary shall, consistent with rules similar to the rules of section 6428A(f)(5)(H)(i), apply paragraph (1) on the basis of information available to the Secretary and shall, on the basis of such information, determine the advance refund amount with respect to such individual without regard to subsection (b)(2)
unless the Secretary has reason to know that such amount would otherwise be reduced by reason of such subsection.

“(7) Special rule related to time of filing return.—Solely for purposes of this subsection, a return of tax shall not be treated as filed until such return has been processed by the Internal Revenue Service.

“(8) Applicable taxable year; rebate taxable year.—For purposes of this subsection—

“(A) Rebate taxable year.—The term ‘rebate taxable year’ means the taxable year for which a credit is allowed under this section.

“(B) Applicable taxable year.—The term ‘applicable taxable year’ means the second taxable year preceding the rebate taxable year.

“(g) Regulations.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including—

“(1) regulations or other guidance providing taxpayers the opportunity to provide the Secretary information sufficient to allow the Secretary to make payments to such taxpayers under subsection (f) (in-
payment) if such information is not otherwise available to the Secretary, and

“(2) regulations or other guidance to ensure to the maximum extent administratively practicable that, in determining the amount of any credit under subsection (a) and any credit or refund under subsection (f), an individual is not taken into account more than once, including by different taxpayers and including by reason of a change in joint return status or dependent status between the taxable year for which an advance refund amount is determined and the taxable year for which a credit under subsection (a) is determined.

“(h) OUTREACH.—The Secretary shall carry out a robust and comprehensive outreach program to ensure that all taxpayers described in subsection (g)(1) learn of their eligibility for the advance refunds and credits under subsection (f); are advised of the opportunity to receive such advance refunds and credits as provided under subsection (g)(1); and are provided assistance in applying for such advance refunds and credits.”.

(b) TREATMENT OF CERTAIN POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—The Secretary of the Treasury shall pay to each possession of the United States
which has a mirror code tax system amounts equal
to the loss (if any) to that possession by reason of
the amendments made by this section. Such
amounts shall be determined by the Secretary of the
Treasury based on information provided by the gov-
ernment of the respective possession.

(2) Payments to Other Possessions.—The
Secretary of the Treasury shall pay to each posses-
sion of the United States which does not have a mir-
ror code tax system amounts estimated by the Sec-
retary of the Treasury as being equal to the aggre-
gate benefits (if any) that would have been provided
to residents of such possession by reason of the
amendments made by this section if a mirror code
tax system had been in effect in such possession.
The preceding sentence shall not apply unless the re-
spective possession has a plan, which has been ap-
proved by the Secretary of the Treasury, under
which such possession will promptly distribute such
payments to its residents.

(3) Inclusion of Administrative Ex-
penses.—The Secretary of the Treasury shall pay
to each possession of the United States to which the
Secretary makes a payment under paragraph (1) or
(2) an amount equal to the increase (if any) of the administrative expenses of such possession—

   (A) in the case of a possession described in paragraph (1), by reason of the amendments made by this section, and

   (B) in the case of a possession described in paragraph (2), by reason of carrying out the plan described in such paragraph, or

the amount described in subparagraph (A) shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

(4) Coordination with credit allowed against United States income taxes.—No credit shall be allowed against United States income taxes under section 6433 of the Internal Revenue Code of 1986 (as added by this section), nor shall any credit or refund be made or allowed under subsection (f) of such section, to any person—

   (A) to whom a credit is allowed against taxes imposed by the possession by reason of the amendments made by this section, or

   (B) who is eligible for a payment under a plan described in paragraph (2).
(5) **Mirror Code Tax System.**—For purposes of this subsection, the term “mirror code tax system” means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(6) **Treatment of Payments.**—For purposes of section 1324 of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(c) **Administrative Provisions.**—

(1) **Definition of Deficiency.**—Section 6211(b)(4)(A) of the Internal Revenue Code of 1986 is amended by striking “6428A, 6428B” and inserting “6428A, 6428B, 6433,”.

(2) **Exception from Reduction or Offset.**—Any refund payable by reason of section 6433(f) of the Internal Revenue Code of 1986 (as added by this section), or any such refund payable by reason of subsection (b) of this section, shall not be—
(A) subject to reduction or offset pursuant to subsection (e), (d), (e), or (f) of section 6402 of the Internal Revenue Code of 1986 or any similar authority permitting offset, or

(B) reduced or offset by other assessed Federal taxes that would otherwise be subject to levy or collection.

(3) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting “6433,” after “6431,”.

(B) The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 6433. Gasoline price rebates.”.

SEC. 4. PROTECT CONSUMERS FROM GAS PRICE HIKES FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 9512. PROTECT CONSUMERS FROM GAS PRICE HIKES FUND.

“(a) ESTABLISHMENT AND FUNDING.—There is hereby established in the Treasury of the United States a trust fund to be referred to as the ‘Protect Consumers
from Gas Hikes Fund’, consisting of such amounts as may be appropriated or credited to such trust fund as provided for in this section and section 9602(b).

“(b) TRANSFERS TO THE PROTECT CONSUMERS FROM GAS PRICE HIKES FUND.—There are hereby appropriated to the Protect Consumers from Gas Hikes Fund amounts equivalent to the taxes received in the Treasury under section 5896.

“(c) USE OF FUNDS.—The Secretary shall pay from time to time from the Protect Consumers from Gas Price Hikes Fund to the general fund of the Treasury amounts equal to the amounts of refunds provided under section 6433.”.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end the following new item:

“Sec. 9512. Protect Consumers from Gas Price Hikes Fund.”.