ENDING OIL INDUSTRY TAX BREAKS

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As Congress and the President focus on eliminating the deficit and reining in wasteful spending, it is imperative that we remove oil industry tax breaks. The oil industry—one of the most profitable the world has ever seen—has enjoyed billions of dollars in tax breaks each year for decades while making enormous profits. These tax breaks worsen the deficit, weaken our energy security, undermine our ability to drive investment into renewable energy sources, and damage our environment. President Obama called for ending these unnecessary subsidies in his State of the Union speech, the administration's FY 2011 budget proposed closing these loopholes, and the G-20 nations have agreed to eliminate them. Curtailing these provisions will save taxpayers roughly $40 billion over 5 years. Congressman Earl Blumenauer is introducing the "End Big Oil Tax Subsidies Act." The key elements are as follows:

- **End the section 45I credit for producing oil and gas from marginal wells.** This tax credit provides a price floor for the production of heavy oil from wells with limited production. High oil prices render this credit inoperable, but it remains on the books. The legislation preserves the credit for small independent oil and gas producers.
- **End the section 43 credit for enhanced oil recovery.** This tax credit provides a 15% general business credit to the cost of extracting oil too viscous to be extracted by conventional water-flooding techniques. It also offsets the cost of constructing pipeline facilities, the cost of depreciable property within such projects, and the cost of tertiary injectants. The legislation preserves the credit for small independent oil and gas producers.
- **End the section 263(c) provision allowing the expensing of intangible drilling costs.** This provision allows intangible drilling costs—*i.e.*, wages, fuel, repairs, and supplies related to and necessary for drilling and preparing wells for the production of oil and gas—to be deducted in the year they occurred. Non-energy companies must depreciate these costs over time. The legislation preserves expensing for small independent oil and gas producers. This will save taxpayers $5.6 billion over five years.
- **End the section 613 depletion for oil and gas wells.** Oil and gas properties qualify for "percentage depletion," a deduction of 15% of gross revenues from the well, even if the deduction exceeds the well's value. Small independent oil and gas producers are held harmless from this change. This will save taxpayers $4.3 billion over five years.
- **End the section 193 deduction for tertiary injectants.** Under this rule, oil companies deduct expenses relating to the cost of tertiary injectants during the taxable year, instead of depreciating these costs over a typical cost recovery schedule. The legislation preserves the deduction for small independent oil and gas producers. This will save taxpayers $43 million over five years.
- **End the Section 901 Foreign Tax Credit loophole for dual capacity oil companies.** Dual capacity taxpayers pay both foreign income taxes as well as payments for specific economic benefits. Current rules are loosely drafted, allowing big oil companies, among others, to count lease payments as foreign taxes for purposes of claiming foreign tax credits. The administration's Fiscal Year 2011 budget scores this change at $3.4 billion over five years; this legislation would be tailored to oil companies, thus reducing those savings.
- **End the section 469 exception for passive loss limitations for oil and gas properties.** Taxpayers can shelter active income through passive losses or credits associated with the production of oil and gas, a condition that does not apply to other sources of passive income or credit. The legislation preserves the exception for small independent oil and gas producers. This will save taxpayers $98 million over five years.
- **End the section 199 domestic manufacturing deduction for oil and gas production.** Taxpayers with income from domestic oil and gas activities may deduct a percentage of their gross receipts minus the costs of their production. The legislation preserves the deduction for small independent oil and gas producers. This will save taxpayers $7.3 billion over five years.
- **Repeal Last-In, First-Out (LIFO) accounting for the major integrated oil companies.** LIFO may be phased out as the U.S. moves to international accounting standards. While it persists, it allows large oil companies to value their inventories at deeply discounted prices. The legislation preserves LIFO for small independent oil and gas producers. The administration's Fiscal Year 2011 budget scores this change at roughly $22 billion over five years; this legislation would be tailored to oil companies, thus reducing those savings.
- **Match the section 167 amortization periods for oil and gas companies at 7 years.** Certain companies amortize the costs of exploratory work in two years, while other companies must amortize those same costs over seven years; this change harmonizes this policy at 7 years. It preserves current law for small independent oil and gas producers. This will save taxpayers $858 million over five years.

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