

115TH CONGRESS
1ST SESSION

S. 1710

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

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2017

Mr. MENENDEZ (for himself, Mr. BLUMENTHAL, Mr. LEAHY, Mr. WHITEHOUSE, Mr. SCHUMER, Mr. NELSON, Mr. FRANKEN, Mrs. SHAHEEN, Mr. PETERS, Ms. HASSAN, Mr. CARDIN, Mr. REED, Mrs. MURRAY, Mr. DURBIN, Ms. STABENOW, Ms. KLOBUCHAR, Mrs. FEINSTEIN, Mr. MERKLEY, Mr. MARKEY, Ms. HIRONO, Ms. HARRIS, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Finance

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.

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.

(a) IN GENERAL.—Section 901 of the Internal Revenue Code of 1986 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) SPECIAL RULES RELATING TO MAJOR INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

“(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer which is a

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

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

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

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

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

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

23 “(2) DUAL CAPACITY TAXPAYER.—For pur-
 24 poses of this subsection, the term ‘dual capacity tax-

1 payer’ means, with respect to any foreign country or
 2 possession of the United States, a person who—

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

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

9 “(3) GENERALLY APPLICABLE INCOME TAX.—
 10 For purposes of this subsection—

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

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

21 “(i) persons who are not dual capacity
 22 taxpayers, and

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

1 (b) EFFECTIVE DATE.—

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

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

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

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

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

1 mary product (within the meaning of subsection
2 (d)(9)) thereof.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to taxable years beginning after
5 December 31, 2017.

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

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

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

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

tion 613(e)(2)) to the same extent and in the same manner as such expenses are deductible in the case of oil and gas wells. This subsection shall not apply with respect to any costs to which any deduction is allowed under section 59(e) or 291.

“(2) EXCLUSION.—

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

“(B) AMORTIZATION OF AMOUNTS NOT ALLOWABLE AS DEDUCTIONS UNDER SUBPARAGRAPH (A).—The amount not allowable as a deduction for any taxable year by reason of subparagraph (A) shall be allowable as a deduction ratably over the 60-month period beginning with the month in which the costs are paid or incurred. For purposes of section 1254, any deduction under this subparagraph shall be treated as a deduction under this subsection.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2017.

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, 2017.

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, 2017.

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, 2017.

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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