

106TH CONGRESS
1ST SESSION

S. 1042

To amend the Internal Revenue Code of 1986 to encourage domestic oil and gas production, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 13, 1999

Mrs. HUTCHISON (for herself, Mr. BREAUX, Mr. DOMENICI, Mr. BINGAMAN, Mr. LOTT, Ms. LANDRIEU, Mr. COCHRAN, Mr. THOMAS, Mr. BROWNBACK, and Mr. GRAMM) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to encourage domestic oil and gas production, 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; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Domestic Energy Production Security and Stabilization
7 Act.”

8 (b) AMENDMENT OF 1986 CODE.—Except as other-
9 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

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

- Sec. 1. Short title; amendment of 1986 Code; table of contents.
- Sec. 2. Tax credit for marginal domestic oil and natural gas well production.
- Sec. 3. Phase-out of certain minimum tax preferences relating to energy production.
- Sec. 4. Depreciation adjustment not to apply to oil and gas assets.
- Sec. 5. Repeal certain adjustments based on adjusted current earnings relating to oil and gas assets.
- Sec. 6. Enhanced oil recovery credit and credit for producing fuel from a non-conventional source allowed against minimum tax.
- Sec. 7. 10-year carryback for percentage depletion for oil and gas property.
- Sec. 8. Net income limitation on percentage depletion repealed for oil and gas properties.
- Sec. 9. Election to expense geological and geophysical expenditures and delay rental payments.
- Sec. 10. Waiver of limitations.

7 **SEC. 2. TAX CREDIT FOR MARGINAL DOMESTIC OIL AND**
 8 **NATURAL GAS WELL PRODUCTION.**

9 (a) PURPOSE.—The purpose of this section is to pre-
 10 vent the abandonment of marginal oil and gas wells re-
 11 sponsible for half of the domestic production of oil and
 12 gas in the United States.

13 (b) CREDIT FOR PRODUCING OIL AND GAS FROM
 14 MARGINAL WELLS.—Subpart D of part IV of subchapter
 15 A of chapter 1 (relating to business credits) is amended
 16 by adding at the end the following new section:

1 **“SEC. 45D. CREDIT FOR PRODUCING OIL AND GAS FROM**
 2 **MARGINAL WELLS.**

3 “(a) GENERAL RULE.—For purposes of section 38,
 4 the marginal well production credit for any taxable year
 5 is an amount equal to the product of—

6 “(1) the credit amount, and

7 “(2) the qualified crude oil production and the
 8 qualified natural gas production which is attrib-
 9 utable to the taxpayer.

10 “(b) CREDIT AMOUNT.—For purposes of this
 11 section—

12 “(1) IN GENERAL.—The credit amount is—

13 “(A) \$3 per barrel of qualified crude oil
 14 production, and

15 “(B) 50 cents per 1,000 cubic feet of
 16 qualified natural gas production.

17 “(2) REDUCTION AS OIL AND GAS PRICES IN-
 18 CREASE.—

19 “(A) IN GENERAL.—The \$3 and 50 cents
 20 amounts under paragraph (1) shall each be re-
 21 duced (but not below zero) by an amount which
 22 bears the same ratio to such amount (deter-
 23 mined without regard to this paragraph) as—

24 “(i) the excess (if any) of the applica-
 25 ble reference price over \$14 (\$1.56 for
 26 qualified natural gas production), bears to

1 “(ii) \$3 (\$0.33 for qualified natural
2 gas production).

3 The applicable reference price for a taxable
4 year is the reference price for the calendar year
5 preceding the calendar year in which the tax-
6 able year begins.

7 “(B) INFLATION ADJUSTMENT.—In the
8 case of any taxable year beginning in a calendar
9 year after 2000, each of the dollar amounts
10 contained in subparagraph (A) shall be in-
11 creased to an amount equal to such dollar
12 amount multiplied by the inflation adjustment
13 factor for such calendar year (determined under
14 section 43(b)(3)(B) by substituting ‘1999’ for
15 ‘1990’).

16 “(C) REFERENCE PRICE.—For purposes of
17 this paragraph, the term ‘reference price’
18 means, with respect to any calendar year—

19 “(i) in the case of qualified crude oil
20 production, the reference price determined
21 under section 29(d)(2)(C), and

22 “(ii) in the case of qualified natural
23 gas production, the Secretary’s estimate of
24 the annual average wellhead price per

1 1,000 cubic feet for all domestic natural
2 gas.

3 “(c) QUALIFIED CRUDE OIL AND NATURAL GAS
4 PRODUCTION.—For purposes of this section—

5 “(1) IN GENERAL.—The terms ‘qualified crude
6 oil production’ and ‘qualified natural gas production’
7 mean domestic crude oil or natural gas which is pro-
8 duced from a marginal well.

9 “(2) LIMITATION ON AMOUNT OF PRODUCTION
10 WHICH MAY QUALIFY.—

11 “(A) IN GENERAL.—Crude oil or natural
12 gas produced during any taxable year from any
13 well shall not be treated as qualified crude oil
14 production or qualified natural gas production
15 to the extent production from the well during
16 the taxable year exceeds 1,095 barrels or barrel
17 equivalents.

18 “(B) PROPORTIONATE REDUCTIONS.—

19 “(i) SHORT TAXABLE YEARS.—In the
20 case of a short taxable year, the limitations
21 under this paragraph shall be proportion-
22 ately reduced to reflect the ratio which the
23 number of days in such taxable year bears
24 to 365.

1 “(ii) WELLS NOT IN PRODUCTION EN-
 2 TIRE YEAR.—In the case of a well which is
 3 not capable of production during each day
 4 of a taxable year, the limitations under
 5 this paragraph applicable to the well shall
 6 be proportionately reduced to reflect the
 7 ratio which the number of days of produc-
 8 tion bears to the total number of days in
 9 the taxable year.

10 “(3) DEFINITIONS.—

11 “(A) MARGINAL WELL.—The term ‘mar-
 12 ginal well’ means a domestic well—

13 “(i) the production from which during
 14 the taxable year is treated as marginal
 15 production under section 613A(c)(6), or

16 “(ii) which, during the taxable year—

17 “(I) has average daily production
 18 of not more than 25 barrel equiva-
 19 lents, and

20 “(II) produces water at a rate
 21 not less than 95 percent of total well
 22 effluent.

23 “(B) CRUDE OIL, ETC.—The terms ‘crude
 24 oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have

1 the meanings given such terms by section
2 613A(e).

3 “(C) BARREL EQUIVALENT.—The term
4 ‘barrel equivalent’ means, with respect to nat-
5 ural gas, a conversion ratio of 6,000 cubic feet
6 of natural gas to 1 barrel of crude oil.

7 “(d) OTHER RULES.—

8 “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-
9 PAYER.—In the case of a marginal well in which
10 there is more than one owner of operating interests
11 in the well and the crude oil or natural gas produc-
12 tion exceeds the limitation under subsection (c)(2),
13 qualifying crude oil production or qualifying natural
14 gas production attributable to the taxpayer shall be
15 determined on the basis of the ratio which tax-
16 payer’s revenue interest in the production bears to
17 the aggregate of the revenue interests of all oper-
18 ating interest owners in the production.

19 “(2) OPERATING INTEREST REQUIRED.—Any
20 credit under this section may be claimed only on
21 production which is attributable to the holder of an
22 operating interest.

23 “(3) PRODUCTION FROM NONCONVENTIONAL
24 SOURCES EXCLUDED.—In the case of production
25 from a marginal well which is eligible for the credit

1 allowed under section 29 for the taxable year, no
 2 credit shall be allowable under this section unless
 3 the taxpayer elects not to claim the credit under sec-
 4 tion 29 with respect to the well.”

5 “(c) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
 6 tion 38(b) is amended by striking “plus” at the end of
 7 paragraph (11), by striking the period at the end of para-
 8 graph (12) and inserting “, plus”, and by adding at the
 9 end the following new paragraph:

10 “(13) the marginal oil and gas well production
 11 credit determined under section 45D(a).”

12 “(d) CREDIT ALLOWED AGAINST REGULAR AND MIN-
 13 IMUM TAX.—

14 “(1) IN GENERAL.—Subsection (c) of section 38
 15 (relating to limitation based on amount of tax) is
 16 amended by redesignating paragraph (3) as para-
 17 graph (4) and by inserting after paragraph (2) the
 18 following new paragraph:

19 “(3) SPECIAL RULES FOR MARGINAL OIL AND
 20 GAS WELL PRODUCTION CREDIT.—

21 “(A) IN GENERAL.—In the case of the
 22 marginal oil and gas well production credit—

23 “(i) this section and section 39 shall
 24 be applied separately with respect to the
 25 credit, and

1 “(ii) in applying paragraph (1) to the
2 credit—

3 “(I) subparagraphs (A) and (B)
4 thereof shall not apply, and

5 “(II) the limitation under para-
6 graph (1) (as modified by subclause
7 (I)) shall be reduced by the credit al-
8 lowed under subsection (a) for the
9 taxable year (other than the marginal
10 oil and gas well production credit).

11 “(B) MARGINAL OIL AND GAS WELL PRO-
12 Duction CREDIT.—For purposes of this sub-
13 section, the term ‘marginal oil and gas well pro-
14 duction credit’ means the credit allowable under
15 subsection (a) by reason of section 45D(a).”

16 (2) CONFORMING AMENDMENT.—Subclause (II)
17 of section 38(c)(2)(A)(ii) is amended by inserting
18 “or the marginal oil and gas well production credit”
19 after “employment credit”.

20 (e) CARRYBACK.—Subsection (a) of section 39 (relat-
21 ing to carryback and carryforward of unused credits gen-
22 erally) is amended by adding at the end the following new
23 paragraph:

1 “(3) 10-YEAR CARRYBACK FOR MARGINAL OIL
2 AND GAS WELL PRODUCTION CREDIT.—In the case
3 of the marginal oil and gas well production credit—

4 “(A) this section shall be applied sepa-
5 rately from the business credit (other than the
6 marginal oil and gas well production credit),

7 “(B) paragraph (1) shall be applied by
8 substituting ‘10 taxable years’ for ‘1 taxable
9 years’ in subparagraph (A) thereof, and

10 “(C) paragraph (2) shall be applied—

11 “(i) by substituting ‘31 taxable years’
12 for ‘21 taxable years’ in subparagraph (A)
13 thereof, and

14 “(ii) by substituting ‘30 taxable years’
15 for ‘20 taxable years’ in subparagraph (B)
16 thereof.”

17 (f) COORDINATION WITH SECTION 29.—Section
18 29(a) is amended by striking “There” and inserting “At
19 the election of the taxpayer, there”.

20 (g) CLERICAL AMENDMENT.—The table of sections
21 for subpart D of part IV of subchapter A of chapter 1
22 is amended by adding at the end the following item:

 “Sec. 45D. Credit for producing oil and gas from marginal wells.”

23 (h) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to production in taxable years be-
25 ginning after December 31, 1998.

1 **SEC. 3. PHASE-OUT OF CERTAIN MINIMUM TAX PREF-**
 2 **ERENCES RELATING TO ENERGY PRODUC-**
 3 **TION.**

4 (a) **ENERGY PREFERENCES FOR INTEGRATED OIL**
 5 **COMPANIES.**—Section 56 (relating to alternative min-
 6 imum taxable income) is amended by adding at the end
 7 the following new subsection:

8 “(h) **ADJUSTMENT BASED ON ENERGY PREF-**
 9 **ERENCE.**—

10 “(1) **IN GENERAL.**—In computing the alter-
 11 native minimum taxable income of any taxpayer for
 12 any taxable year beginning after 1998, there shall be
 13 allowed as a deduction an amount equal to the alter-
 14 native tax energy preference deduction.

15 “(2) **PHASE-OUT OF DEDUCTION AS OIL PRICES**
 16 **INCREASES.**—The amount of the deduction under
 17 paragraph (1) (determined without regard to this
 18 paragraph) shall be reduced (but not below zero) by
 19 the amount which bears the same ratio to such
 20 amount as—

21 “(A) the amount by which the reference
 22 price for the calendar year preceding the cal-
 23 endar year in which the taxable year begins ex-
 24 ceeds \$14, bears to

25 “(B) \$3.

1 For purposes of this paragraph, the reference price
 2 for any calendar year shall be determined under sec-
 3 tion 29(d)(2)(C), and, in the case of any taxable
 4 year beginning in a calendar year after 2000, the
 5 \$14 amount under subparagraph (A) shall be ad-
 6 justed at the same time and in the same manner as
 7 under section 43(b)(3) by substituting ‘1999’ for
 8 ‘1990’.

9 “(3) ALTERNATIVE TAX ENERGY PREFERENCE
 10 DEDUCTION.—For purposes of paragraph (1), the
 11 term ‘alternative tax energy preference deduction’
 12 means an amount equal to the sum of—

13 “(A) the intangible drilling cost preference,
 14 and

15 “(B) the depletion preference.

16 “(4) INTANGIBLE DRILLING COST PREF-
 17 ERENCE.—For purposes of this subsection, the term
 18 ‘intangible drilling cost preference’ means the
 19 amount by which alternative minimum taxable in-
 20 come would be reduced if it were computed without
 21 regard to section 57(a)(2).

22 “(5) DEPLETION PREFERENCE.—For purposes
 23 of this subsection, the term ‘depletion preference’
 24 means the amount by which alternative minimum

1 taxable income would be reduced if it were computed
2 without regard to section 57(a)(1).

3 “(6) ALTERNATIVE MINIMUM TAXABLE IN-
4 COME.—For purposes of paragraphs (1), (4), and
5 (5), alternative minimum taxable income shall be de-
6 termined without regard to the deduction allowable
7 under this subsection and the alternative tax net op-
8 erating loss deduction under subsection (a)(4).

9 “(7) REGULATIONS.—The Secretary may by
10 regulation provide for appropriate adjustments in
11 computing alternative minimum taxable income or
12 adjusted current earnings for any taxable year fol-
13 lowing a taxable year for which a deduction was al-
14 lowed under this subsection to ensure that no double
15 benefit is allowed by reason of such deduction.”

16 (b) REPEAL OF LIMIT ON REDUCTION FOR INDE-
17 PENDENT PRODUCERS.—Subparagraphs (E) of section
18 57(a)(2) (relating to exception for independent producers)
19 is amended to read as follows:

20 “(E) EXCEPTION FOR INDEPENDENT PRO-
21 DUCERS.—In the case of any oil or gas well,
22 this paragraph shall not apply to any taxpayer
23 which is not an integrated oil company (as de-
24 fined in section 291(b)(4)).”

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 1998.

4 **SEC. 4. DEPRECIATION ADJUSTMENT NOT TO APPLY TO**
 5 **OIL AND GAS ASSETS.**

6 (a) IN GENERAL.—Subparagraph (B) of section
 7 56(a)(1) (relating to depreciation adjustments) is amend-
 8 ed to read as follows:

9 “(B) EXCEPTIONS.—This paragraph shall
 10 not apply to—

11 “(i) property described in paragraph
 12 (1), (2), (3), or (4) of section 168(f), or

13 “(ii) property used in the active con-
 14 duct of the trade or business of exploring
 15 for, extracting, developing, or gathering
 16 crude oil or natural gas.”

17 (b) EFFECTIVE DATE.—The amendment made by
 18 this section shall apply to property placed in service in
 19 taxable years beginning after December 31, 1998.

20 **SEC. 5. REPEAL CERTAIN ADJUSTMENTS BASED ON AD-**
 21 **JUSTED CURRENT EARNINGS RELATING TO**
 22 **OIL AND GAS ASSETS.**

23 (a) INTANGIBLE DRILLING COSTS.—Clause (i) of
 24 section 56(g)(4)(D) is amended by striking the second
 25 sentence and inserting “In the case of any oil or gas well,

1 this clause shall not apply in the case of amounts paid
 2 or incurred in taxable years beginning after December 31,
 3 1998.”

4 (b) DEPLETION.—Clause (ii) of section 56(g)(4)(F)
 5 is amended to read as follows:

6 “(ii) EXCEPTION FOR OIL AND GAS
 7 WELLS.—In the case of any taxable year
 8 beginning after December 31, 1998, clause
 9 (i) (and subparagraph (C)(i)) shall not
 10 apply to any deduction for depletion com-
 11 puted in accordance with section 613A.”

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 December 31, 1998.

15 **SEC. 6. ENHANCED OIL RECOVERY CREDIT AND CREDIT**
 16 **FOR PRODUCING FUEL FROM A NONCONVEN-**
 17 **TIONAL SOURCE ALLOWED AGAINST MIN-**
 18 **IMUM TAX.**

19 (a) ENHANCED OIL RECOVERY CREDIT ALLOWED
 20 AGAINST REGULAR AND MINIMUM TAX.—

21 (1) ALLOWING CREDIT AGAINST MINIMUM
 22 TAX.—Subsection (c) of section 38 (relating to limi-
 23 tation based on amount of tax), as amended by sec-
 24 tion 2(d), is amended by redesignating paragraph

(4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) SPECIAL RULES FOR ENHANCED OIL RECOVERY CREDIT.—

“(A) IN GENERAL.—In the case of the enhanced oil recovery credit—

“(i) this section and section 39 shall be applied separately with respect to the credit, and

“(ii) in applying paragraph (1) to the credit—

“(I) subparagraphs (A) and (B) thereof shall not apply, and

“(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the enhanced oil recovery credit).

“(B) ENHANCED OIL RECOVERY CREDIT.—For purposes of this subsection, the term ‘enhanced oil recovery credit’ means the credit allowable under subsection (a) by reason of section 43(a).”

(2) CONFORMING AMENDMENTS.—

1 (A) Subclause (II) of section
 2 38(c)(2)(A)(ii), as amended by section 2(d), is
 3 amended by striking “or the marginal oil and
 4 gas well production credit” and inserting “, the
 5 marginal oil and gas well production credit, or
 6 the enhanced oil recovery credit”.

7 (B) Subclause (II) of section
 8 38(c)(3)(A)(ii), as added by section 2(d), is
 9 amended by inserting “or the enhanced oil re-
 10 covery credit” after “recovery credit”.

11 (b) CREDIT FOR PRODUCING FUEL FROM A NON-
 12 CONVENTIONAL SOURCE.—

13 (1) ALLOWING CREDIT AGAINST MINIMUM
 14 TAX.—Section 29(b)(6) is amended to read as fol-
 15 lows:

16 “(6) APPLICATION WITH OTHER CRED-
 17 ITS.—The credit allowed by subsection (a) for
 18 any taxable year shall not exceed—

19 “(A) the regular tax for the taxable
 20 year and the tax imposed by section 55, re-
 21 duced by

22 “(B) the sum of the credits allowable
 23 under subpart A and section 27.”

24 (2) CONFORMING AMENDMENTS.—

1 (A) Section 53(d)(1)(B)(iii) is amended by
 2 inserting “as in effect on the date of the enact-
 3 ment of the Domestic Energy Production Secu-
 4 rity and Stabilization Act,” after
 5 “29(b)(6)(B),”.

6 (B) Section 55(c)(2) is amended by strik-
 7 ing “29(b)(6),”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to taxable years beginning after
 10 December 31, 1998.

11 **SEC. 7. 10-YEAR CARRYBACK FOR PERCENTAGE DEPLE-**
 12 **TION FOR OIL AND GAS PROPERTY.**

13 (a) IN GENERAL.—Subsection (d)(1) of section 613A
 14 (relating to limitations on percentage depletion in case of
 15 oil and gas wells) is amended to read as follows:

16 “(1) LIMITATION BASED ON TAXABLE IN-
 17 COME.—

18 “(A) IN GENERAL.—The deduction for the
 19 taxable year attributable to the application of
 20 subsection (c) shall not exceed so much of the
 21 taxpayer’s taxable income for the year as the
 22 taxpayer elects computed without regard to—

23 “(i) any depletion on production from
 24 an oil or gas property which is subject to
 25 the provisions of subsection (c),

1 “(ii) any net operating loss carryback
2 to the taxable year under section 172,

3 “(iii) any capital loss carryback to the
4 taxable year under section 1212, and

5 “(iv) in the case of a trust, any dis-
6 tributions to its beneficiary, except in the
7 case of any trust where any beneficiary of
8 such trust is a member of the family (as
9 defined in section 267(c)(4)) of a settlor
10 who created inter vivos and testamentary
11 trusts for members of the family and such
12 settlor died within the last six days of the
13 fifth month in 1970, and the law in the ju-
14 risdiction in which such trust was created
15 requires all or a portion of the gross or net
16 proceeds of any royalty or other interest in
17 oil, gas, or other mineral representing any
18 percentage depletion allowance to be allo-
19 cated to the principal of the trust.

20 “(B) CARRYBACKS AND CARRYFOR-
21 WARDS.—

22 “(i) IN GENERAL.—If an amount is
23 disallowed as a deduction for the taxable
24 year (in this subparagraph referred to as
25 the ‘unused depletion year’) by reason of

1 application of subparagraph (A), the dis-
 2 allowed amount shall be treated as an
 3 amount allowable as a deduction under
 4 subsection (c) for—

5 “(I) any of the 10 taxable years
 6 preceding the unused depletion year,
 7 and

8 “(II) the taxable year following
 9 the unused depletion year,
 10 subject to the application of subparagraph
 11 (A) to such taxable year.

12 “(ii) ELECTION TO WAIVE
 13 CARRYBACK.—Any taxpayer entitled to a
 14 carryback period under this subparagraph
 15 may elect to relinquish such carryback for
 16 any of the taxable years to which it would
 17 apply. Such election made in any taxable
 18 year may be revised in the succeeding tax-
 19 able year in such manner as the Secretary
 20 may prescribe.

21 “(C) ALLOCATION OF DISALLOWED
 22 AMOUNTS.—For purposes of basis adjustments
 23 and determining whether cost depletion exceeds
 24 percentage depletion with respect to the produc-
 25 tion from a property, any amount disallowed as

1 a deduction on the application of this para-
 2 graph shall be allocated to the respective prop-
 3 erties from which the oil or gas was produced
 4 in proportion to the percentage depletion other-
 5 wise allowable to such properties under sub-
 6 section (c).”

7 (b) EFFECTIVE DATE.—The amendment made by
 8 this section shall apply to taxable years beginning after
 9 December 31, 1998, and to any taxable year beginning
 10 on or before such date to the extent necessary to apply
 11 section 613A(d)(1) of the Internal Revenue Code of 1986
 12 (as added by subsection (a)).

13 **SEC. 8. NET INCOME LIMITATION ON PERCENTAGE DEPLE-**
 14 **TION REPEALED FOR OIL AND GAS PROP-**
 15 **ERTIES.**

16 (a) IN GENERAL.—Section 613(a) (relating to per-
 17 centage depletion) is amended by striking the second sen-
 18 tence and inserting: “Except in the case of oil and gas
 19 properties, such allowance shall not exceed 50 percent of
 20 the taxpayer’s taxable income from the property (com-
 21 puted without allowances for depletion).”

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 613A(c)(7) (relating to special
 24 rules) is amended by striking subparagraph (C) and

1 redesignating subparagraph (D) as subparagraph
2 (C).

3 (2) Section 613A(c)(6) (relating to oil and nat-
4 ural gas produced from marginal properties) is
5 amended by striking subparagraph (H).

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 1998.

9 **SEC. 9. ELECTION TO EXPENSE GEOLOGICAL AND GEO-**
10 **PHYSICAL EXPENDITURES AND DELAY RENT-**
11 **AL PAYMENTS.**

12 (a) PURPOSE.—The purpose of this section is to rec-
13 ognize that geological and geophysical expenditures and
14 delay rentals are ordinary and necessary business expenses
15 that should be deducted in the year the expense is in-
16 curred.

17 (b) ELECTION TO EXPENSE GEOLOGICAL AND GEO-
18 PHYSICAL EXPENDITURES.—

19 (1) IN GENERAL.—Section 263 (relating to cap-
20 ital expenditures) is amended by adding at the end
21 the following new subsection:

22 “(j) GEOLOGICAL AND GEOPHYSICAL EXPENDI-
23 TURES FOR OIL AND GAS WELLS.—Notwithstanding sub-
24 section (a), a taxpayer may elect to treat geological and
25 geophysical expenses incurred in connection with the ex-

1 ploration for, or development of, oil or gas as expenses
 2 which are not chargeable to capital account. Any expenses
 3 so treated shall be allowed as a deduction in the taxable
 4 year in which paid or incurred.”

5 (2) CONFORMING AMENDMENT.—Section
 6 263A(c)(3) is amended by inserting “263(j),” after
 7 “263(i),”.

8 (3) EFFECTIVE DATE.—

9 (A) IN GENERAL.—The amendments made
 10 by this subsection shall apply to expenses paid
 11 or incurred after the date of the enactment of
 12 this Act.

13 (B) TRANSITION RULE.—In the case of
 14 any expenses described in section 263(j) of the
 15 Internal Revenue Code of 1986, as added by
 16 this subsection, which were paid or incurred on
 17 or before the date of the enactment of this Act,
 18 the taxpayer may elect, at such time and in
 19 such manner as the Secretary of the Treasury
 20 may prescribe, to amortize the suspended por-
 21 tion of such expenses over the 36-month period
 22 beginning with the month in which the date of
 23 the enactment of this Act occurs. For purposes
 24 of this subparagraph, the suspended portion of
 25 any expense is that portion of such expense

1 which, as of the first day of the 36-month pe-
 2 riod, has not been included in the cost of a
 3 property or otherwise deducted.

4 (c) ELECTION TO EXPENSE DELAY RENTAL PAY-
 5 MENTS.—

6 (1) IN GENERAL.—Section 263 (relating to cap-
 7 ital expenditures), as amended by subsection (b)(1),
 8 is amended by adding at the end the following new
 9 subsection:

10 “(k) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL
 11 AND GAS WELLS.—

12 “(1) IN GENERAL.—Notwithstanding subsection
 13 (a), a taxpayer may elect to treat delay rental pay-
 14 ments incurred in connection with the development
 15 of oil or gas within the United States (as defined in
 16 section 638) as payments which are not chargeable
 17 to capital account. Any payments so treated shall be
 18 allowed as a deduction in the taxable year in which
 19 paid or incurred.

20 “(2) DELAY RENTAL PAYMENTS.—For purposes
 21 of paragraph (1), the term ‘delay rental payment’
 22 means an amount paid for the privilege of deferring
 23 the drilling of an oil or gas well under an oil or gas
 24 lease.”

1 (2) CONFORMING AMENDMENT.—Section
2 263A(c)(3), as amended by subsection (b)(2), is
3 amended by inserting “263(k),” after “263(j),”.

4 (3) EFFECTIVE DATE.—

5 (A) IN GENERAL.—The amendments made
6 by this subsection shall apply to payments made
7 or incurred after the date of the enactment of
8 this Act.

9 (B) TRANSITION RULE.—In the case of
10 any payments described in section 263(k) of the
11 Internal Revenue Code of 1986, as added by
12 this subsection, which were made or incurred on
13 or before the date of the enactment of this Act,
14 the taxpayer may elect, at such time and in
15 such manner as the Secretary of the Treasury
16 may prescribe, to amortize the suspended por-
17 tion of such payments over the 36-month period
18 beginning with the month in which the date of
19 the enactment of this Act occurs. For purposes
20 of this subparagraph, the suspended portion of
21 any payment is that portion of such payment
22 which, as of the first day of the 36-month pe-
23 riod, has not been included in the cost of a
24 property or otherwise deducted.

1 **SEC. 10. WAIVER OF LIMITATIONS.**

2 If refund or credit of any overpayment of tax result-
3 ing from the application of the amendments made by this
4 Act is prevented at any time before the close of the 1-
5 year period beginning on the date of the enactment of this
6 Act by the operation of any law or rule of law (including
7 res judicata), such refund or credit may nevertheless be
8 made or allowed if claim therefor is filed before the close
9 of such period.

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