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2D SESSION

H. R. 5234

To amend the Internal Revenue Code of 1986 to repeal certain tax incentives
for oil companies.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2006

Mr. LARSON of Connecticut (for himself, Mr. McDERMOTT, Mr. HINCHEY,
Mr. ALLEN, Ms. HOOLEY, Mr. GRIJALVA, Ms. DeLAURO, Mr. HONDA,
Mr. NADLER, and Ms. LEE) introduced the following bill; which was re-
ferred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to repeal
certain tax incentives for oil companies.

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 “Oil Subsidy Elimini-

5 nation Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) On Friday April 21, 2006, the trading price

9 for a barrel of oil reached a new record high of

1 \$75.17. As a result the price of gasoline in many
2 areas around the country jumped to \$3 per gallon
3 or higher.

4 (2) According to the Energy Information Ad-
5 ministration (EIA) of the Department of Energy,
6 gas prices are expected to rise nationally by at least
7 another 25 cents in the short term.

8 (3) Oil companies are receiving record profits
9 as a result of high gas prices. In 2005,
10 ExxonMobil—the Nation’s largest oil company—
11 earned a net income of \$36.1 billion, up 31 percent
12 from the year before. In the fourth quarter of 2005
13 alone, ExxonMobile earned \$10 billion, up from the
14 previous record of \$9.92 billion set by ExxonMobile
15 in the third quarter of 2005.

16 (4) While high energy prices are squeezing the
17 American middle class, oil executives are receiving
18 record compensation and retirement packages. For
19 example, the retiring chairman of ExxonMobil was
20 recently given a \$400 million retirement package—
21 one of the largest in history.

22 (5) In the 108th and 109th Congresses, the
23 United States Congress passed, and the President
24 signed, legislation giving billions in taxpayer dollars
25 away to the oil industry in the form of tax breaks—

1 even as this industry continues to garner record
2 breaking profits.

3 (6) At a November 9, 2005, joint hearing of the
4 Committee on Energy and Natural Resources and
5 the Committee on Environment and Public Works of
6 the Senate, the chief executive officers of the top five
7 oil companies testified that their companies did not
8 need the Federal tax incentives included in the En-
9 ergy Policy Act of 2005 (Public Law 109–58).

10 (7) On April 25, 2006, President Bush stated
11 “Record oil prices and large cash flows also mean
12 that Congress has got to understand that these en-
13 ergy companies don’t need unnecessary tax breaks
14 like the write-offs of certain geological and geo-
15 physical expenditures, or the use of taxpayers’
16 money to subsidize energy companies research into
17 deep water drilling. I’m looking forward to Congress
18 to take about \$2 billion of these tax breaks out of
19 the budget over a 10-year period of time. Cash flows
20 are up. Taxpayers don’t need to be paying for cer-
21 tain of these expenses on behalf of the energy com-
22 panies.”.

1 **SEC. 2. REQUIREMENTS FOR CERTAIN LARGE INTEGRATED**
2 **OIL COMPANIES.**

3 (a) REVALUATION OF LIFO INVENTORIES OF LARGE
4 INTEGRATED OIL COMPANIES.—

5 (1) GENERAL RULE.—Notwithstanding any
6 other provision of law, if a taxpayer is an applicable
7 integrated oil company for its last taxable year end-
8 ing in calendar year 2005, the taxpayer shall—

9 (A) increase, effective as of the close of
10 such taxable year, the value of each historic
11 LIFO layer of inventories of crude oil, natural
12 gas, or any other petroleum product (within the
13 meaning of section 4611) by the layer adjust-
14 ment amount, and

15 (B) decrease its cost of goods sold for such
16 taxable year by the aggregate amount of the in-
17 creases under paragraph (1).

18 If the aggregate amount of the increases under
19 paragraph (1) exceed the taxpayer's cost of goods
20 sold for such taxable year, the taxpayer's gross in-
21 come for such taxable year shall be increased by the
22 amount of such excess.

23 (2) LAYER ADJUSTMENT AMOUNT.—For pur-
24 poses of this section—

1 (A) IN GENERAL.—The term “layer ad-
2 justment amount” means, with respect to any
3 historic LIFO layer, the product of—

4 (i) \$18.75, and

5 (ii) the number of barrels of crude oil
6 (or in the case of natural gas or other pe-
7 troleum products, the number of barrel-of-
8 oil equivalents) represented by the layer.

9 (B) BARREL-OF-OIL EQUIVALENT.—The
10 term “barrel-of-oil equivalent” has the meaning
11 given such term by section 29(d)(5) (as in ef-
12 fect before its redesignation by the Energy Tax
13 Incentives Act of 2005).

14 (3) APPLICATION OF REQUIREMENT.—

15 (A) NO CHANGE IN METHOD OF ACCOUNT-
16 ING.—Any adjustment required by this section
17 shall not be treated as a change in method of
18 accounting.

19 (B) UNDERPAYMENTS OF ESTIMATED
20 TAX.—No addition to the tax shall be made
21 under section 6655 of the Internal Revenue
22 Code of 1986 (relating to failure by corporation
23 to pay estimated tax) with respect to any un-
24 derpayment of an installment required to be
25 paid with respect to the taxable year described

1 in subsection (a) to the extent such under-
2 payment was created or increased by this sec-
3 tion.

4 (4) APPLICABLE INTEGRATED OIL COMPANY.—

5 For purposes of this subsection, the term “applica-
6 ble integrated oil company” means an integrated oil
7 company (as defined in section 291(b)(4) of the In-
8 ternal Revenue Code of 1986) which has an average
9 daily worldwide production of crude oil of at least
10 500,000 barrels for the taxable year and which had
11 gross receipts in excess of \$1,000,000,000 for its
12 last taxable year ending during calendar year 2005.

13 For purposes of this subsection all persons treated
14 as a single employer under subsections (a) and (b)
15 of section 52 of the Internal Revenue Code of 1986
16 shall be treated as 1 person and, in the case of a
17 short taxable year, the rule under section
18 448(c)(3)(B) shall apply.

19 (b) ELIMINATION OF AMORTIZATION OF GEOLOGICAL
20 AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTE-
21 GRATED OIL COMPANIES.—

22 (1) IN GENERAL.—Section 167(h) of the Inter-
23 nal Revenue Code of 1986 is amended by adding at
24 the end the following new paragraph:

1 “(5) NONAPPLICATION TO MAJOR INTEGRATED
 2 OIL COMPANIES.—This subsection shall not apply
 3 with respect to any expenses paid or incurred for
 4 any taxable year by any integrated oil company (as
 5 defined in section 291(b)(4)) which has an average
 6 daily worldwide production of crude oil of at least
 7 500,000 barrels for such taxable year.”.

8 (2) EFFECTIVE DATE.—The amendment made
 9 by this section shall take effect as if included in the
 10 amendment made by section 1329(a) of the Energy
 11 Policy Act of 2005.

12 (c) MODIFICATIONS OF FOREIGN TAX CREDIT
 13 RULES APPLICABLE TO LARGE INTEGRATED OIL COMPA-
 14 NIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

15 (1) IN GENERAL.—Section 901 of the Internal
 16 Revenue Code of 1986 (relating to credit for taxes
 17 of foreign countries and of possessions of the United
 18 States) is amended by redesignating subsection (m)
 19 as subsection (n), and by inserting after subsection
 20 (l) the following new subsection:

21 “(m) SPECIAL RULES RELATING TO LARGE INTE-
 22 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY
 23 TAXPAYERS.—

24 “(1) GENERAL RULE.—Notwithstanding any
 25 other provision of this chapter, any amount paid or

1 accrued by a dual capacity taxpayer which is a large
2 integrated oil company to a foreign country or pos-
3 session of the United States for any period shall not
4 be considered 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
21 not in excess of the amount determined under
22 subparagraph (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 possession.

1 “(4) LARGE INTEGRATED OIL COMPANY.—For
 2 purposes of this subsection, the term ‘large inte-
 3 grated oil company’ means, with respect to any tax-
 4 able year, an integrated oil company (as defined in
 5 section 291(b)(4)) which—

6 “(A) had gross receipts in excess of
 7 \$1,000,000,000 for such taxable year, and

8 “(B) has an average daily worldwide pro-
 9 duction of crude oil of at least 500,000 barrels
 10 for such taxable year.”

11 (2) EFFECTIVE DATE.—

12 (A) IN GENERAL.—The amendments made
 13 by this subsection shall apply to taxes paid or
 14 accrued in taxable years beginning after the
 15 date of the enactment of this Act.

16 (B) CONTRARY TREATY OBLIGATIONS
 17 UPHELD.—The amendments made by this sub-
 18 section shall not apply to the extent contrary to
 19 any treaty obligation of the United States.

20 **SEC. 3. REPEAL OF TAX SUBSIDIES ENACTED BY THE EN-**
 21 **ERGY POLICY ACT OF 2005 FOR OIL AND GAS.**

22 (a) REPEAL.—The following provisions, and amend-
 23 ments made by such provisions, of the Energy Policy Act
 24 of 2005 are hereby repealed:

1 (1) Section 1323 (relating to temporary expens-
2 ing for equipment used in refining of liquid fuels).

3 (2) Section 1328 (relating to determination of
4 small refiner exception to oil depletion deduction).

5 (3) Section 1329 (relating to amortization of
6 geological and geophysical expenditures).

7 (b) ADMINISTRATION OF INTERNAL REVENUE CODE
8 OF 1986.—The Internal Revenue Code of 1986 shall be
9 applied and administered as if the provisions, and amend-
10 ments, specified in subsection (a) had never been enacted.

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