

109TH CONGRESS
1ST SESSION

S. 1039

To amend the Internal Revenue Code of 1986 to modify the treatment of depreciation of refinery property.

IN THE SENATE OF THE UNITED STATES

MAY 16, 2005

Mr. HATCH 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 modify the treatment of depreciation of refinery property.

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 “Gas Price Reduction
5 Through Increased Refinery Capacity Act of 2005”.

6 **SEC. 2. INCENTIVES FOR INVESTMENT IN OIL REFINERIES.**

7 (a) ELECTION TO EXPENSE QUALIFIED REFIN-
8 ERIES.—

9 (1) IN GENERAL.—Part VI of subchapter B of
10 chapter 1 of the Internal Revenue Code of 1986 is

1 amended by inserting after section 179B the fol-
 2 lowing new section:

3 **“SEC. 179C. ELECTION TO EXPENSE CERTAIN REFINERIES.**

4 “(a) TREATMENT AS EXPENSES.—A taxpayer may
 5 elect to treat the cost of any qualified refinery property
 6 as an expense which is not chargeable to a capital account.
 7 Any cost so treated shall be allowed as a deduction for
 8 the taxable year in which the qualified refinery is placed
 9 in service.

10 “(b) ELECTION.—

11 “(1) IN GENERAL.—An election under this sec-
 12 tion for any taxable year shall be made on the tax-
 13 payer’s return of the tax imposed by this chapter for
 14 the taxable year. Such election shall be made in such
 15 manner as the Secretary may by regulations pre-
 16 scribe.

17 “(2) ELECTION IRREVOCABLE.—Any election
 18 made under this section may not be revoked except
 19 with the consent of the Secretary.

20 “(c) QUALIFIED REFINERY PROPERTY.—The term
 21 ‘qualified refinery property’ means any refinery or portion
 22 of a refinery—

23 “(1) with respect to the construction of which
 24 there is a binding construction contract before Janu-
 25 ary 1, 2008,

1 “(2) which is placed in service by the taxpayer
2 before January 1, 2012,

3 “(3) in the case of any portion of a refinery,
4 which meets the requirements of subsection (d), and

5 “(4) which meets all applicable environmental
6 laws in effect on the date such refinery or portion
7 thereof was placed in service.

8 A waiver under the Clean Air Act shall not be taken into
9 account in determining whether the requirements of para-
10 graph (4) are met.

11 “(d) PRODUCTION CAPACITY.—The requirements of
12 this subsection are met if the portion of the refinery—

13 “(1) increases the rated capacity of the existing
14 refinery by 5 percent or more over the capacity of
15 such refinery as reported by the Energy Information
16 Agency on January 1, 2005, or

17 “(2) enables the existing refinery to process
18 qualified fuels (as defined in section 29(c)) at a rate
19 which is equal to or greater than 25 percent of the
20 total throughput of such refinery on an average daily
21 basis.

22 “(e) INELIGIBLE REFINERIES.—No deduction shall
23 be allowed under subsection (a) for any qualified refinery
24 property—

1 “(1) the primary purpose of which is for use as
2 a topping plant, asphalt plant, lube oil facility, crude
3 or product terminal, or blending facility, or

4 “(2) which is built solely to comply with Feder-
5 ally mandated projects or consent decrees.”.

6 (2) CONFORMING AMENDMENT.—The table of
7 sections for part VI of subchapter B of chapter 1 of
8 the Internal Revenue Code of 1986 is amended by
9 inserting after the item relating to section 179B the
10 following new item:

“Sec. 179C. Election to expense certain refineries.”.

11 (b) CLASS LIFE FOR REFINERIES.—

12 (1) IN GENERAL.—Subparagraph (B) of section
13 168(e)(3) of the Internal Revenue Code of 1986 (re-
14 lating to 5-year property) is amended by striking
15 “and” at the end of clause (v), by striking the pe-
16 riod at the end of clause (vi) and inserting “, and”,
17 and by adding at the end the following new clause:

18 “(vii) any petroleum refining prop-
19 erty.”.

20 (2) PETROLEUM REFINING ASSET.—Section
21 168(i) of such Code is amended by adding at the
22 end the following new paragraph:

23 “(17) PETROLEUM REFINING PROPERTY.—

24 “(A) IN GENERAL.—The term ‘petroleum
25 refining property’ means any asset for petro-

1 leum refining, including assets used for the dis-
2 tillation, fractionation, and catalytic cracking of
3 crude petroleum into gasoline and its other
4 components.

5 “(B) ASSET MUST MEET ENVIRONMENTAL
6 LAWS.—Such term shall not include any asset
7 which does not meet all applicable environ-
8 mental laws in effect on the date such asset was
9 placed in service. For purposes of the preceding
10 sentence, a waiver under the Clean Air Act
11 shall not be taken into account in determining
12 whether the applicable environmental laws have
13 been met.

14 “(C) SPECIAL RULE FOR MERGERS AND
15 ACQUISITIONS.—Such term shall not include
16 any asset with respect to which a deduction was
17 taken under subsection (e)(3)(B) by any other
18 taxpayer in any preceding year.”.

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—The amendments made by
21 this section shall apply to refineries placed in service
22 after the date of the enactment of this Act.

23 (2) EXCEPTION.—The amendments made by
24 this section shall not apply to any refinery with re-
25 spect to which the taxpayer has entered into a bind-

- 1 ing contract for the construction thereof on or before
- 2 the date of the enactment of this Act.

