

111TH CONGRESS
1ST SESSION

H. R. 3379

To amend the Internal Revenue Code of 1986 to impose a tax on transactions in oil futures and options and to deposit the revenues from the tax into the Highway Trust Fund.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2009

Mr. DEFazio (for himself, Mr. OBERSTAR, Mr. GEORGE MILLER of California, Ms. SLAUGHTER, Mr. RAHALL, Mr. BOSWELL, Mr. CAPUANO, Mr. LIPINSKI, Mr. CUMMINGS, Mr. DICKS, Mr. HINCHEY, Ms. HIRONO, Mr. THOMPSON of California, Mr. KILDEE, Mr. HARE, Mr. BAIRD, Ms. KAPTUR, Mr. MOLLOHAN, Mr. STARK, Mr. WU, Mr. COSTELLO, Mr. PASCRELL, Mr. FILNER, Mr. PERRIELLO, Mr. BISHOP of New York, Mrs. NAPOLITANO, Ms. NORTON, Mr. LARSON of Connecticut, and Mr. OLVER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to impose a tax on transactions in oil futures and options and to deposit the revenues from the tax into the Highway Trust Fund.

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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Lowering Oil Price Speculation for Infrastructure Dedi-

1 cated to Economic Development Act of 2009” or the
2 “LOPSIDED Oil Prices Act of 2009”.

3 (b) FINDINGS.—Congress finds the following:

4 (1) The price of oil has risen and fallen dra-
5 matically over the last decade without a clear con-
6 nection to the laws of supply and demand.

7 (2) The price of a barrel of oil predictably
8 stayed beneath \$20 a barrel of oil for decades. In
9 the beginning of 1999, the price was under \$10 a
10 barrel of oil, but since then the oil market has been
11 plagued by speculation and fluctuated wildly.

12 (3) In late 2004, the price of oil exceeded \$40
13 a barrel of oil, up 400 percent in 5 years.

14 (4) In late 2007, the price exceeded \$80 a bar-
15 rel of oil, up 800 percent in 8 years.

16 (5) Nine months later, the price of oil peaked
17 at \$145 per barrel of oil, up 1450 percent in just
18 under 10 years. While demand has risen, it has not
19 to risen at those rates.

20 (6) The price of oil collapsed in 2008, but the
21 collapse preceded the greater economic downturn. In
22 January 2009, the price had dropped to just over
23 \$30 a barrel of oil.

1 (7) The economy continues to slide downward
2 pushing with it oil demand, but illogically the price
3 of oil recently peaked at over \$70 a barrel of oil.

4 (8) Many economists have attributed this irra-
5 tional behavior of the oil market to the large in-
6 crease in speculative trading in oil derivatives. Crude
7 oil is now the world's most actively traded com-
8 modity futures contract.

9 (9) In 2004, the New York Mercantile Ex-
10 change (NYMEX) facilitated 52 million oil futures
11 contracts, and in 2008 NYMEX facilitated 134 mil-
12 lion oil futures contracts. Other exchanges have seen
13 similar increases, and there is no accurate measure
14 for over-the-counter trades.

15 (10) On June 13, 2009, the finance ministers
16 from G8 countries—Canada, France, Germany,
17 Italy, Japan, Russia, Britain and the United
18 States—said “Excess volatility of commodity prices
19 poses risks to growth.”

20 (11) Commodity Futures Trading Commis-
21 sioner Bart Chilton, said in June 2009, “Crude oil
22 prices are up 60 percent on the year. Supplies are
23 at a 10-year high, and demand is at a 10-year low.
24 You do the math. Why should prices be over \$70?”

1 (12) Many economists argue that a transaction
2 tax on speculative trading will deter short-term spec-
3 ulation, which will reduce the volatility and price of
4 oil.

5 (13) James Tobin, a Nobel Prize winner in eco-
6 nomics, stated a security transaction tax “would
7 automatically penalize short-horizon round trips,
8 while negligibly affecting the incentives for . . .
9 longer-term capital investments.”

10 (14) Larry Summers, the current Chairman of
11 the National Economic Council and the top economic
12 adviser President Obama, wrote in 1989 that impos-
13 ing a securities transaction tax “would have the ben-
14 eficial effects of curbing instability introduced by
15 speculation, reducing the diversion of resources into
16 the financial sector of the economy, and lengthening
17 the horizon of corporate managers. The efficiency
18 benefits derived from curbing speculation are likely
19 to exceed any costs or reduced liquidity or increased
20 costs of capital that come from taxing financial
21 transactions more heavily.”

22 (15) A well-designed oil transaction tax could
23 reduce the volatility of the oil futures market with-
24 out harming legitimate hedge traders. Oil prices will

1 then return to accurate price discovery following the
 2 supply and demand price curve.

3 (16) Since 70 percent of oil consumed in the
 4 United States is for transportation, the revenue
 5 raised on oil transactions is an ideal additional
 6 source of funds for the Highway Trust Fund.

7 **SEC. 2. TAX ON TRANSACTIONS IN OIL FUTURES AND OP-**
 8 **TIONS.**

9 (a) IN GENERAL.—Chapter 36 of the Internal Rev-
 10 enue Code of 1986 is amended by inserting after sub-
 11 chapter B the following new subchapter:

12 **“Subchapter C—Tax on Transactions in Oil**
 13 **Futures and Options**

“Sec. 4475. Tax on transactions in oil futures and options.

14 **“SEC. 4475. TAX ON TRANSACTIONS IN OIL FUTURES AND**
 15 **OPTIONS.**

16 “(a) IMPOSITION OF TAX.—

17 “(1) FUTURES.—There is hereby imposed a tax
 18 on each covered transaction in an oil futures con-
 19 tract of 0.2 percent of the value of the futures in-
 20 struments involved in such transaction.

21 “(2) OPTIONS.—There is hereby imposed a tax
 22 on each covered transaction in an oil option of 0.5
 23 percent of the premium paid on the option for a fu-
 24 tures instruments involved in such transaction.

1 “(b) BY WHOM PAID.—

2 “(1) IN GENERAL.—The tax imposed by this
3 section shall be paid by—

4 “(A) the trading facility on which the
5 transaction occurs, or

6 “(B) if such transaction does not occur on
7 a trading facility, by the buyer of the trans-
8 action.

9 “(2) WITHHOLDING IF BUYER NOT UNITED
10 STATES PERSON.—See section 1447 for withholding
11 by seller if buyer is foreign person.

12 “(c) EXCEPTION FOR COMMERCIAL TRADERS.—The
13 tax imposed by this section shall not apply to any trans-
14 action if—

15 “(1) either party to the transaction is—

16 “(A) classified by the Commodity Futures
17 Trading Commission as a commercial trader
18 with respect to oil, or

19 “(B) a financial institution acting on be-
20 half of such a party (but only if the financial
21 institution does not at any time acquire owner-
22 ship of the security), and

23 “(2) the transaction is a bona fide hedging
24 transactions (within the meaning of section 4a(c) of
25 the Commodity Exchange Act).

1 “(d) DEFINITIONS.—For purposes of this section—

2 “(1) IN GENERAL.—The term ‘covered trans-
3 action’ any purchase or sale of an oil futures con-
4 tract or an oil option if—

5 “(A) such purchase or sale on a trading fa-
6 cility located in the United States, or

7 “(B) the purchaser or seller is a United
8 States person.

9 “(2) FUTURES.—The term ‘oil futures contract’
10 means any contract of sale of oil for future delivery
11 (within the meaning of the Commodity Exchange
12 Act).

13 “(3) OPTIONS.—The term ‘oil option’ means
14 any option on a oil futures transaction.

15 “(4) TRADING FACILITY.—The term ‘trading
16 facility’ has the meaning given to such term by the
17 Commodity Exchange Act.

18 “(e) ADMINISTRATION.—The Secretary shall carry
19 out this section in consultation with the Commodity Fu-
20 tures Trading Commission.”.

21 (b) WITHHOLDING.—Subchapter A of chapter 3 of
22 such Code is amended by adding at the end the following
23 new section:

1 **“SEC. 1447. WITHHOLDING OF TAX ON TRANSACTIONS IN**
 2 **OIL FUTURES AND OPTIONS.**

3 “In the case of any acquisition of an oil futures con-
 4 tract or an oil option (as such terms are defined in section
 5 4475) by a foreign person, the transferor shall be required
 6 to deduct and withhold a tax equal to the tax which would
 7 be imposed on such acquisition under section 4475 if the
 8 transferee were a United States person.”.

9 (c) TAX REVENUES DEPOSITED INTO HIGHWAY
 10 TRUST FUND.—Paragraph (1) of section 9503(b) of such
 11 Code is amended by striking “and” at the end of subpara-
 12 graph (D), by striking the period at the end of subpara-
 13 graph (E) and inserting “, and”, and by inserting after
 14 subparagraph (E) the following new subparagraph:

15 “(F) sections 1447 and 4475 (relating to
 16 taxes on transactions in oil futures and op-
 17 tions).”.

18 (d) CLERICAL AMENDMENTS.—

19 (1) The table of subchapters for chapter 36 of
 20 such Code is amended by inserting after the item re-
 21 lating to subchapter B the following new item:

“SUBCHAPTER C. TAX ON TRANSACTIONS IN OIL FUTURES AND OPTIONS.”.

22 (2) The table of sections for subchapter A of
 23 chapter 3 of such Code is amended by adding at the
 24 end the following new item:

“Sec. 1447. Withholding of tax on transactions in oil futures and options.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to transactions occurring on or
3 after October 1, 2009.

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