

112TH CONGRESS  
2D SESSION

# H. R. 4108

To amend the Internal Revenue Code of 1986 to increase and extend the credit for qualifying advanced energy projects, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 29, 2012

Ms. BERKLEY introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Natural Resources and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to increase and extend the credit for qualifying advanced energy projects, 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.**

4       This Act may be cited as the “Clean Energy Jobs  
5       Act of 2012”.

1 **TITLE I—INCREASE AND EXTEN-**  
2 **SION OF CREDIT FOR QUALI-**  
3 **FYING ADVANCED ENERGY**  
4 **PROJECTS**

5 **SEC. 101. INCREASE AND EXTENSION OF CREDIT FOR**  
6 **QUALIFYING ADVANCED ENERGY PROJECTS.**

7 (a) IN GENERAL.—Subsection (d) of section 48C of  
8 the Internal Revenue Code of 1986 is amended by adding  
9 at the end the following new paragraph:

10 “(6) ADDITIONAL 2012 ALLOCATIONS.—

11 “(A) IN GENERAL.—Not later than 180  
12 days after the date of the enactment of this  
13 paragraph, the Secretary, in consultation with  
14 the Secretary of Energy, shall establish a pro-  
15 gram to consider and award certifications for  
16 qualified investments eligible for credits under  
17 this section to qualifying advanced energy  
18 project sponsors with respect to applications re-  
19 ceived on or after the date of the enactment of  
20 this paragraph.

21 “(B) LIMITATION.—The total amount of  
22 credits that may be allocated under the pro-  
23 gram described in subparagraph (A) shall not  
24 exceed \$5,000,000,000.

1 “(C) APPLICATION OF CERTAIN RULES.—  
 2 Rules similar to the rules of paragraphs (2),  
 3 (3), (4), and (5) shall apply for purposes of the  
 4 program described in subparagraph (A), except  
 5 that applicants shall have 2 years from the date  
 6 that the Secretary establishes such program to  
 7 submit applications.”.

8 (b) EFFECTIVE DATE.—The amendment made by  
 9 this section shall take effect on the date of the enactment  
 10 of this Act.

11 **TITLE II—REVENUE OFFSETS**  
 12 **Subtitle A—Close Big Oil Tax**  
 13 **Loopholes**

14 **SEC. 201. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**  
 15 **APPLICABLE TO MAJOR INTEGRATED OIL**  
 16 **COMPANIES WHICH ARE DUAL CAPACITY**  
 17 **TAXPAYERS.**

18 (a) IN GENERAL.—Section 901 of the Internal Rev-  
 19 enue Code of 1986 is amended by redesignating subsection  
 20 (n) as subsection (o) and by inserting after subsection (m)  
 21 the following new subsection:

22 “(n) SPECIAL RULES RELATING TO MAJOR INTE-  
 23 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY  
 24 TAXPAYERS.—

1           “(1) GENERAL RULE.—Notwithstanding any  
2 other provision of this chapter, any amount paid or  
3 accrued by a dual capacity taxpayer which is a  
4 major integrated oil company (as defined in section  
5 167(h)(5)(B)) to a foreign country or possession of  
6 the United States for any period shall not be consid-  
7 ered a tax—

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

11           “(B) to the extent such amount exceeds  
12 the amount (determined in accordance with reg-  
13 ulations) which—

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

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

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

1           “(2) DUAL CAPACITY TAXPAYER.—For pur-  
2           poses of this subsection, the term ‘dual capacity tax-  
3           payer’ means, with respect to any foreign country or  
4           possession of the United States, a person who—

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

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

11           “(3) GENERALLY APPLICABLE INCOME TAX.—  
12           For purposes of this subsection—

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

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

23                           “(i) persons who are not dual capacity  
24                           taxpayers, and

1 “(ii) persons who are citizens or resi-  
 2 dents of the foreign country or posses-  
 3 sion.”.

4 (b) EFFECTIVE DATE.—

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

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

13 **SEC. 202. LIMITATION ON SECTION 199 DEDUCTION ATTRIB-**  
 14 **UTABLE TO OIL, NATURAL GAS, OR PRIMARY**  
 15 **PRODUCTS THEREOF.**

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

20 “(E) SPECIAL RULE FOR CERTAIN OIL  
 21 AND GAS INCOME.—In the case of any taxpayer  
 22 who is a major integrated oil company (as de-  
 23 fined in section 167(h)(5)(B)) for the taxable  
 24 year, the term ‘domestic production gross re-  
 25 cepts’ shall not include gross receipts from the

1 production, transportation, or distribution of  
 2 oil, natural gas, or any primary product (within  
 3 the meaning of subsection (d)(9)) thereof.”.

4 (b) EFFECTIVE DATE.—The amendment made by  
 5 this section shall apply to taxable years beginning after  
 6 December 31, 2011.

7 **SEC. 203. LIMITATION ON DEDUCTION FOR INTANGIBLE**  
 8 **DRILLING AND DEVELOPMENT COSTS.**

9 (a) IN GENERAL.—Section 263(c) of the Internal  
 10 Revenue Code of 1986 is amended by adding at the end  
 11 the following new sentence: “This subsection shall not  
 12 apply to amounts paid or incurred by a taxpayer in any  
 13 taxable year in which such taxpayer is a major integrated  
 14 oil company (as defined in section 167(h)(5)(B)).”.

15 (b) EFFECTIVE DATE.—The amendment made by  
 16 this section shall apply to amounts paid or incurred in tax-  
 17 able years beginning after December 31, 2011.

18 **SEC. 204. LIMITATION ON PERCENTAGE DEPLETION AL-**  
 19 **LOWANCE FOR OIL AND GAS WELLS.**

20 (a) IN GENERAL.—Section 613A of the Internal Rev-  
 21 enue Code of 1986 is amended by adding at the end the  
 22 following new subsection:

23 “(f) APPLICATION WITH RESPECT TO MAJOR INTE-  
 24 GRATED OIL COMPANIES.—In the case of any taxable year  
 25 in which the taxpayer is a major integrated oil company

1 (as defined in section 167(h)(5)(B)), the allowance for  
 2 percentage depletion shall be zero.”.

3 (b) EFFECTIVE DATE.—The amendment made by  
 4 this section shall apply to taxable years beginning after  
 5 December 31, 2011.

6 **SEC. 205. LIMITATION ON DEDUCTION FOR TERTIARY**  
 7 **INJECTANTS.**

8 (a) IN GENERAL.—Section 193 of the Internal Rev-  
 9 enue Code of 1986 is amended by adding at the end the  
 10 following new subsection:

11 “(d) APPLICATION WITH RESPECT TO MAJOR INTE-  
 12 GRATED OIL COMPANIES.—This section shall not apply to  
 13 amounts paid or incurred by a taxpayer in any taxable  
 14 year in which such taxpayer is a major integrated oil com-  
 15 pany (as defined in section 167(h)(5)(B)).”.

16 (b) EFFECTIVE DATE.—The amendment made by  
 17 this section shall apply to amounts paid or incurred in tax-  
 18 able years beginning after December 31, 2011.

19 **Subtitle B—Outer Continental**  
 20 **Shelf Oil and Natural Gas**

21 **SEC. 211. 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 the enactment of this Act for which  
5 a final notice of sale has not been published.

6 **Subtitle C—Miscellaneous**

7 **SEC. 221. 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. 222. 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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