

113TH CONGRESS
1ST SESSION

H. R. 1295

To amend the Internal Revenue Code of 1986 to repeal the excise tax on medical devices, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2013

Mr. MAFFEI (for himself and Mr. POLIS) 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 repeal the excise tax on medical devices, 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 “Medical Device Tax
5 Elimination Act”.

6 **SEC. 2. REPEAL OF MEDICAL DEVICE EXCISE TAX.**

7 (a) IN GENERAL.—Chapter 32 of the Internal Rev-
8 enue Code of 1986 is amended by striking subchapter E.

9 (b) CONFORMING AMENDMENTS.—

1 (1) Subsection (a) of section 4221 of such Code
2 is amended by striking the last sentence.

3 (2) Paragraph (2) of section 6416(b) of such
4 Code is amended by striking the last sentence.

5 (c) CLERICAL AMENDMENT.—The table of sub-
6 chapters for chapter 32 of such Code is amended by strik-
7 ing the item relating to subchapter E.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to sales after the date of the enact-
10 ment of this Act.

11 **SEC. 3. LIMITATION ON SECTION 199 DEDUCTION ATTRIB-**
12 **UTABLE TO OIL, NATURAL GAS, OR PRIMARY**
13 **PRODUCTS THEREOF.**

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

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

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

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to taxable years beginning after
5 December 31, 2012.

6 **SEC. 4. PROHIBITION ON USING LAST-IN, FIRST-OUT AC-**
7 **COUNTING FOR MAJOR INTEGRATED OIL**
8 **COMPANIES.**

9 (a) IN GENERAL.—Section 472 of the Internal Rev-
10 enue Code of 1986 is amended by adding at the end the
11 following new subsection:

12 “(h) MAJOR INTEGRATED OIL COMPANIES.—Not-
13 withstanding any other provision of this section, a major
14 integrated oil company (as defined in section
15 167(h)(5)(B)) may not use the method provided in sub-
16 section (b) in inventorying of any goods.”.

17 (b) EFFECTIVE DATE AND SPECIAL RULE.—

18 (1) IN GENERAL.—The amendment made by
19 subsection (a) shall apply to taxable years beginning
20 after December 31, 2012.

21 (2) CHANGE IN METHOD OF ACCOUNTING.—In
22 the case of any taxpayer required by the amendment
23 made by this section to change its method of ac-
24 counting for its first taxable year beginning after
25 December 31, 2012—

1 (A) such change shall be treated as initi-
2 ated by the taxpayer,

3 (B) such change shall be treated as made
4 with the consent of the Secretary of the Treas-
5 ury, and

6 (C) the net amount of the adjustments re-
7 quired to be taken into account by the taxpayer
8 under section 481 of the Internal Revenue Code
9 of 1986 shall be taken into account ratably over
10 a period (not greater than 8 taxable years) be-
11 ginning with such first taxable year.

12 **SEC. 5. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**

13 **APPLICABLE TO MAJOR INTEGRATED OIL**
14 **COMPANIES WHICH ARE DUAL CAPACITY**
15 **TAXPAYERS.**

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

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

23 “(1) GENERAL RULE.—Notwithstanding any
24 other provision of this chapter, any amount paid or
25 accrued by a dual capacity taxpayer which is a

1 major integrated oil company (as defined in section
2 167(h)(5)(B)) to a foreign country or possession of
3 the United States for any period shall not be consid-
4 ered 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 posses-
25 sion.”.

1 (b) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply to taxes paid or accrued in
4 taxable years beginning after December 31, 2012.

5 (2) CONTRARY TREATY OBLIGATIONS
6 UPHELD.—The amendments made by this section
7 shall not apply to the extent contrary to any treaty
8 obligation of the United States.

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