

AMENDMENT NO. _____ Calendar No. _____

Purpose: To reduce the Federal budget deficit by closing big oil tax loopholes, and for other purposes.

IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.

S. 2012

To provide for the modernization of the energy policy of the United States, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MENENDEZ to the amendment (No. _____) proposed by Ms. MURKOWSKI

Viz:

1 At the end of the bill, add the following:

2 **TITLE VI—ELIMINATING TAX**
3 **LOOPHOLES FOR BIG OIL**

4 **SEC. 6001. SHORT TITLE.**

5 This title may be cited as the “Close Big Oil Tax
6 Loopholes Act”.

1 **Subtitle A—Close Big Oil Tax**
2 **Loopholes**

3 **SEC. 6011. MODIFICATIONS OF FOREIGN TAX CREDIT**
4 **RULES APPLICABLE TO MAJOR INTEGRATED**
5 **OIL COMPANIES WHICH ARE DUAL CAPACITY**
6 **TAXPAYERS.**

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

11 “(n) SPECIAL RULES RELATING TO MAJOR INTE-
12 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY
13 TAXPAYERS.—

14 “(1) GENERAL RULE.—Notwithstanding any
15 other provision of this chapter, any amount paid or
16 accrued by a dual capacity taxpayer which is a
17 major integrated oil company (within the meaning of
18 section 167(h)(5)) to a foreign country or possession
19 of the United States for any period shall not be con-
20 sidered a tax—

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

1 “(B) to the extent such amount exceeds
2 the amount (determined in accordance with reg-
3 ulations) which—

4 “(i) is paid by such dual capacity tax-
5 payer pursuant to the generally applicable
6 income tax imposed by the country or pos-
7 session, or

8 “(ii) would be paid if the generally ap-
9 plicable income tax imposed by the country
10 or possession were applicable to such dual
11 capacity taxpayer.

12 Nothing in this paragraph shall be construed to
13 imply the proper treatment of any such amount not
14 in excess of the amount determined under subpara-
15 graph (B).

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

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

22 “(B) receives (or will receive) directly or
23 indirectly a specific economic benefit (as deter-
24 mined in accordance with regulations) from
25 such country or possession.

1 “(3) GENERALLY APPLICABLE INCOME TAX.—

2 For purposes of this subsection—

3 “(A) IN GENERAL.—The term ‘generally
4 applicable income tax’ means an income tax (or
5 a series of income taxes) which is generally im-
6 posed under the laws of a foreign country or
7 possession on income derived from the conduct
8 of a trade or business within such country or
9 possession.

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

13 “(i) persons who are not dual capacity
14 taxpayers, and

15 “(ii) persons who are citizens or resi-
16 dents of the foreign country or posses-
17 sion.”.

18 (b) EFFECTIVE DATE.—

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

23 (2) CONTRARY TREATY OBLIGATIONS
24 UPHELD.—The amendments made by this section

1 shall not apply to the extent contrary to any treaty
2 obligation of the United States.

3 **SEC. 6012. LIMITATION ON SECTION 199 DEDUCTION AT-**
4 **TRIBUTABLE TO OIL, NATURAL GAS, OR PRI-**
5 **MARY PRODUCTS THEREOF.**

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

10 “(E) SPECIAL RULE FOR CERTAIN OIL
11 AND GAS INCOME.—In the case of any taxpayer
12 who is a major integrated oil company (within
13 the meaning of section 167(h)(5)) for the tax-
14 able year, the term ‘domestic production gross
15 receipts’ shall not include gross receipts from
16 the production, refining, processing, transpor-
17 tation, or distribution of oil, gas, or any pri-
18 mary product (within the meaning of subsection
19 (d)(9)) thereof.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to taxable years beginning after
22 December 31, 2015.

1 **SEC. 6013. LIMITATION ON DEDUCTION FOR INTANGIBLE**
2 **DRILLING AND DEVELOPMENT COSTS; AMOR-**
3 **TIZATION OF DISALLOWED AMOUNTS.**

4 (a) IN GENERAL.—Section 263(c) of the Internal
5 Revenue Code of 1986 is amended to read as follows:

6 “(c) INTANGIBLE DRILLING AND DEVELOPMENT
7 COSTS IN THE CASE OF OIL AND GAS WELLS AND GEO-
8 THERMAL WELLS.—

9 “(1) IN GENERAL.—Notwithstanding subsection
10 (a), and except as provided in subsection (i), regula-
11 tions shall be prescribed by the Secretary under this
12 subtitle corresponding to the regulations which
13 granted the option to deduct as expenses intangible
14 drilling and development costs in the case of oil and
15 gas wells and which were recognized and approved
16 by the Congress in House Concurrent Resolution 50,
17 Seventy-ninth Congress. Such regulations shall also
18 grant the option to deduct as expenses intangible
19 drilling and development costs in the case of wells
20 drilled for any geothermal deposit (as defined in sec-
21 tion 613(e)(2)) to the same extent and in the same
22 manner as such expenses are deductible in the case
23 of oil and gas wells. This subsection shall not apply
24 with respect to any costs to which any deduction is
25 allowed under section 59(e) or 291.

26 “(2) EXCLUSION.—

1 “(A) IN GENERAL.—This subsection shall
2 not apply to amounts paid or incurred by a tax-
3 payer in any taxable year in which such tax-
4 payer is a major integrated oil company (within
5 the meaning of section 167(h)(5)).

6 “(B) AMORTIZATION OF AMOUNTS NOT AL-
7 LOWABLE AS DEDUCTIONS UNDER SUBPARA-
8 GRAPH (A).—The amount not allowable as a de-
9 duction for any taxable year by reason of sub-
10 paragraph (A) shall be allowable as a deduction
11 ratably over the 60-month period beginning
12 with the month in which the costs are paid or
13 incurred. For purposes of section 1254, any de-
14 duction under this subparagraph shall be treat-
15 ed as a deduction under this subsection.”.

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, 2015.

19 **SEC. 6014. LIMITATION ON PERCENTAGE DEPLETION AL-**
20 **LOWANCE FOR OIL AND GAS WELLS.**

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

24 “(f) APPLICATION WITH RESPECT TO MAJOR INTE-
25 GRATED OIL COMPANIES.—In the case of any taxable year

1 in which the taxpayer is a major integrated oil company
2 (within the meaning of section 167(h)(5)), the allowance
3 for percentage depletion shall be zero.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to taxable years beginning after
6 December 31, 2015.

7 **SEC. 6015. LIMITATION ON DEDUCTION FOR TERTIARY**
8 **INJECTANTS.**

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

12 “(d) APPLICATION WITH RESPECT TO MAJOR INTE-
13 GRATED OIL COMPANIES.—

14 “(1) IN GENERAL.—This section shall not apply
15 to amounts paid or incurred by a taxpayer in any
16 taxable year in which such taxpayer is a major inte-
17 grated oil company (within the meaning of section
18 167(h)(5)).

19 “(2) AMORTIZATION OF AMOUNTS NOT ALLOW-
20 ABLE AS DEDUCTIONS UNDER PARAGRAPH (1).—The
21 amount not allowable as a deduction for any taxable
22 year by reason of paragraph (1) shall be allowable
23 as a deduction ratably over the 60-month period be-
24 ginning with the month in which the costs are paid
25 or incurred.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to amounts paid or incurred in tax-
3 able years beginning after December 31, 2015.

4 **SEC. 6016. MODIFICATION OF DEFINITION OF MAJOR INTE-**
5 **GRATED OIL COMPANY.**

6 (a) IN GENERAL.—Paragraph (5) of section 167(h)
7 of the Internal Revenue Code of 1986 is amended by add-
8 ing at the end the following new subparagraph:

9 “(C) CERTAIN SUCCESSORS IN INTER-
10 EST.—For purposes of this paragraph, the term
11 ‘major integrated oil company’ includes any
12 successor in interest of a company that was de-
13 scribed in subparagraph (B) in any taxable
14 year, if such successor controls more than 50
15 percent of the crude oil production or natural
16 gas production of such company.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) IN GENERAL.—Subparagraph (B) of section
19 167(h)(5) of the Internal Revenue Code of 1986 is
20 amended by inserting “except as provided in sub-
21 paragraph (C),” after “For purposes of this para-
22 graph,”.

23 (2) TAXABLE YEARS TESTED.—Clause (iii) of
24 section 167(h)(5)(B) of such Code is amended—

1 (A) by striking “does not apply by reason
2 of paragraph (4) of section 613A(d)” and in-
3 serting “did not apply by reason of paragraph
4 (4) of section 613A(d) for any taxable year
5 after 2004”, and

6 (B) by striking “does not apply” in sub-
7 clause (II) and inserting “did not apply for the
8 taxable year”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2015.

12 **Subtitle B—Outer Continental**
13 **Shelf Oil and Natural Gas**

14 **SEC. 6021. REPEAL OF OUTER CONTINENTAL SHELF DEEP**
15 **WATER AND DEEP GAS ROYALTY RELIEF.**

16 (a) IN GENERAL.—Sections 344 and 345 of the En-
17 ergy Policy Act of 2005 (42 U.S.C. 15904, 15905) are
18 repealed.

19 (b) ADMINISTRATION.—The Secretary of the Interior
20 shall not be required to provide for royalty relief in the
21 lease sale terms beginning with the first lease sale held
22 on or after the date of enactment of this Act for which
23 a final notice of sale has not been published.

1 **Subtitle C—Miscellaneous**

2 **SEC. 6031. DEFICIT REDUCTION.**

3 The net amount of any savings realized as a result
4 of the enactment of this title and the amendments made
5 by this title (after any expenditures authorized by this title
6 and the amendments made by this title) shall be deposited
7 in the Treasury and used for Federal budget deficit reduc-
8 tion or, if there is no Federal budget deficit, for reducing
9 the Federal debt in such manner as the Secretary of the
10 Treasury considers appropriate.

11 **SEC. 6032. BUDGETARY EFFECTS.**

12 The budgetary effects of this title, for the purpose
13 of complying with the Statutory Pay-As-You-Go Act of
14 2010, shall be determined by reference to the latest state-
15 ment titled “Budgetary Effects of PAYGO Legislation”
16 for this Act, submitted for printing in the Congressional
17 Record by the Chairman of the Senate Budget Committee,
18 provided that such statement has been submitted prior to
19 the vote on passage.