

[DISCUSSION DRAFT]

JANUARY 23, 2019

116TH CONGRESS
1ST SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to repeal loopholes for major integrated oil companies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. BROWNLEY of California introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to repeal loopholes for major integrated oil companies, 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 **SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Surface Transportation Investment Act of 2019”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CLOSE BIG OIL TAX LOOPHOLES

- Sec. 2. Modifications of foreign tax credit rules applicable to major integrated oil companies which are dual capacity taxpayers.
- Sec. 3. Limitation on deduction for intangible drilling and development costs; amortization of disallowed amounts.
- Sec. 4. Limitation on percentage depletion allowance for oil and gas wells.
- Sec. 5. Limitation on deduction for tertiary injectants.
- Sec. 6. Modification of definition of major integrated oil company.

TITLE II—TRANSPORTATION BLOCK GRANTS

- Sec. 201. Use of revenue for transportation block grants.

1 **TITLE I—CLOSE BIG OIL TAX**
2 **LOOPHOLES**

3 **SEC. 2. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**
4 **APPLICABLE TO MAJOR INTEGRATED OIL**
5 **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

1 of the United States for any period shall not be con-
2 sidered a tax—

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

6 “(B) to the extent such amount exceeds
7 the amount (determined in accordance with reg-
8 ulations) which—

9 “(i) is paid by such dual capacity tax-
10 payer pursuant to the generally applicable
11 income tax imposed by the country or pos-
12 session, or

13 “(ii) would be paid if the generally ap-
14 plicable income tax imposed by the country
15 or possession were applicable to such dual
16 capacity taxpayer.

17 Nothing in this paragraph shall be construed to
18 imply the proper treatment of any such amount not
19 in excess of the amount determined under subpara-
20 graph (B).

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

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

3 “(B) receives (or will receive) directly or
4 indirectly a specific economic benefit (as deter-
5 mined in accordance with regulations) from
6 such country or possession.

7 “(3) GENERALLY APPLICABLE INCOME TAX.—

8 For purposes of this subsection—

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

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

19 “(i) persons who are not dual capacity
20 taxpayers, and

21 “(ii) persons who are citizens or resi-
22 dents of the foreign country or posses-
23 sion.”.

24 (b) EFFECTIVE DATE.—

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

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.

9 **SEC. 3. LIMITATION ON DEDUCTION FOR INTANGIBLE**
10 **DRILLING AND DEVELOPMENT COSTS; AMOR-**
11 **TIZATION OF DISALLOWED AMOUNTS.**

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

14 “(c) INTANGIBLE DRILLING AND DEVELOPMENT
15 COSTS IN THE CASE OF OIL AND GAS WELLS AND GEO-
16 THERMAL WELLS.—

17 “(1) IN GENERAL.—Notwithstanding subsection
18 (a), and except as provided in subsection (i), regula-
19 tions shall be prescribed by the Secretary under this
20 subtitle corresponding to the regulations which
21 granted the option to deduct as expenses intangible
22 drilling and development costs in the case of oil and
23 gas wells and which were recognized and approved
24 by the Congress in House Concurrent Resolution 50,
25 Seventy-ninth Congress. Such regulations shall also

1 grant the option to deduct as expenses intangible
2 drilling and development costs in the case of wells
3 drilled for any geothermal deposit (as defined in sec-
4 tion 613(e)(2)) to the same extent and in the same
5 manner as such expenses are deductible in the case
6 of oil and gas wells. This subsection shall not apply
7 with respect to any costs to which any deduction is
8 allowed under section 59(e) or 291.

9 “(2) EXCLUSION.—

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

15 “(B) AMORTIZATION OF AMOUNTS NOT AL-
16 LOWABLE AS DEDUCTIONS UNDER SUBPARA-
17 GRAPH (A).—The amount not allowable as a
18 deduction for any taxable year by reason of
19 subparagraph (A) shall be allowable as a deduc-
20 tion ratably over the 60-month period beginning
21 with the month in which the costs are paid or
22 incurred. For purposes of section 1254, any de-
23 duction under this subparagraph shall be treat-
24 ed as a deduction under this subsection.”.

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, 2019.

4 **SEC. 4. LIMITATION ON PERCENTAGE DEPLETION ALLOW-**
5 **ANCE FOR OIL AND GAS WELLS.**

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

9 “(f) APPLICATION WITH RESPECT TO MAJOR INTE-
10 GRATED OIL COMPANIES.—In the case of any taxable year
11 in which the taxpayer is a major integrated oil company
12 (within the meaning of section 167(h)(5)), the allowance
13 for percentage depletion shall be zero.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to taxable years beginning after
16 December 31, 2019.

17 **SEC. 5. LIMITATION ON DEDUCTION FOR TERTIARY**
18 **INJECTANTS.**

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

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

24 “(1) IN GENERAL.—This section shall not apply
25 to amounts paid or incurred by a taxpayer in any

1 taxable year in which such taxpayer is a major inte-
2 grated oil company (within the meaning of section
3 167(h)(5)).

4 “(2) AMORTIZATION OF AMOUNTS NOT ALLOW-
5 ABLE AS DEDUCTIONS UNDER PARAGRAPH (1).—

6 The amount not allowable as a deduction for any
7 taxable year by reason of paragraph (1) shall be al-
8 lowable as a deduction ratably over the 60-month
9 period beginning with the month in which the costs
10 are paid or incurred.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to amounts paid or incurred in tax-
13 able years beginning after December 31, 2019.

14 **SEC. 6. MODIFICATION OF DEFINITION OF MAJOR INTE-**
15 **GRATED OIL COMPANY.**

16 (a) IN GENERAL.—Section 167(h)(5) of the Internal
17 Revenue Code of 1986 is amended by adding at the end
18 the following new subparagraph:

19 “(C) CERTAIN SUCCESSORS IN INTER-
20 EST.—For purposes of this paragraph, the term
21 ‘major integrated oil company’ includes any
22 successor in interest of a company that was de-
23 scribed in subparagraph (B) in any taxable
24 year, if such successor controls more than 50

1 percent of the crude oil production or natural
2 gas production of such company.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) IN GENERAL.—Section 167(h)(5)(B) of the
5 Internal Revenue Code of 1986 is amended by in-
6 serting “except as provided in subparagraph (C),”
7 after “For purposes of this paragraph,”.

8 (2) TAXABLE YEARS TESTED.—Section
9 167(h)(5)(B)(iii) of such Code is amended—

10 (A) by striking “does not apply by reason
11 of paragraph (4) of section 613A(d)” and in-
12 serting “did not apply by reason of paragraph
13 (4) of section 613A(d) for any taxable year
14 after 2004”, and

15 (B) by striking “does not apply” in sub-
16 clause (II) and inserting “did not apply for the
17 taxable year”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 2019.

1 **TITLE II—TRANSPORTATION**
2 **BLOCK GRANTS**

3 **SEC. 201. USE OF REVENUE FOR TRANSPORTATION BLOCK**
4 **GRANTS.**

5 (a) **IN GENERAL.**—Subchapter A of chapter 98 of the
6 Internal Revenue Code of 1986 is amended by adding at
7 the end the following new section:

8 **“SEC. 9512. TRANSPORTATION BLOCK GRANT FUND.**

9 “(a) **ESTABLISHMENT.**—There is established in the
10 Treasury a fund to be known as the ‘Transportation Block
11 Grant Fund’ consisting of such amounts as may be appro-
12 priated or credited to the fund as provided in this section
13 or section 9602(b).

14 “(b) **TRANSFER TO FUND.**—There is hereby appro-
15 priated to the fund such amounts as the Secretary esti-
16 mates are equivalent to the increase in revenue received
17 in the Treasury by reason of the enactment of title I of
18 the Surface Transportation Investment Act of 2019, and
19 the amendments made thereby.

20 “(c) **EXPENDITURES FROM THE FUND.**—Amounts in
21 the fund shall be available for making grants under the
22 surface transportation block grant program established
23 under section 133 of title 23, United States Code.”.

- 1 (b) CLERICAL AMENDMENT.—The table of sections
- 2 for subchapter A of chapter 98 of such Code is amended
- 3 by adding at the end the following new item:

“Sec. 9512. Transportation Block Grant Fund.”.