

111TH CONGRESS
1ST SESSION

S. 1087

To amend the Internal Revenue Code of 1986 to repeal certain tax incentives related to oil and gas.

IN THE SENATE OF THE UNITED STATES

MAY 20, 2009

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to repeal certain tax incentives related to oil and gas.

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 “Energy Fairness for
5 America Act”.

1 **SEC. 2. DENIAL OF DEDUCTION FOR INCOME ATTRIB-**
2 **UTABLE TO DOMESTIC PRODUCTION OF OIL,**
3 **NATURAL GAS, OR PRIMARY PRODUCTS**
4 **THEREOF.**

5 (a) **IN GENERAL.**—Subparagraph (B) of section
6 199(c)(4) of the Internal Revenue Code of 1986 (relating
7 to exceptions) is amended by striking “or” at the end of
8 clause (ii), by striking the period at the end of clause (iii)
9 and inserting “, or”, and by inserting after clause (iii) the
10 following new clause:

11 “(iv) the production, refining, proc-
12 essing, transportation, or distribution of
13 oil, natural gas, or any primary product
14 thereof.”.

15 (b) **PRIMARY PRODUCT.**—Section 199(c)(4)(B) of
16 such Code is amended by adding at the end the following
17 flush sentence:

18 “For purposes of clause (iv), the term ‘primary
19 product’ has the same meaning as when used in
20 section 927(a)(2)(C), as in effect before its re-
21 peal.”.

22 (c) **CONFORMING AMENDMENTS.**—

23 (1) Section 199(c)(4) of such Code is amend-
24 ed—

1 (A) in subparagraph (A)(i)(III) by striking
2 “electricity, natural gas,” and inserting “elec-
3 tricity”, and

4 (B) in subparagraph (B)(ii) by striking
5 “electricity, natural gas,” and inserting “elec-
6 tricity”.

7 (2) Section 199(d) of such Code is amended by
8 striking paragraph (9) and by redesignating para-
9 graph (10) as paragraph (9).

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 the date of the enactment of this Act.

13 **SEC. 3. TERMINATION OF CREDIT FOR PRODUCING OIL**
14 **AND GAS FROM MARGINAL WELLS.**

15 (a) IN GENERAL.—Section 45I of the Internal Rev-
16 enue Code of 1986 is amended by adding at the end the
17 following new subsection:

18 “(e) TERMINATION.—This section shall not apply to
19 any taxable year beginning after the date of the enactment
20 of this subsection.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to taxable years beginning after
23 the date of the enactment of this Act.

1 **SEC. 4. REPEAL OF EXCEPTION FROM PASSIVE ACTIVITY**
2 **RULES FOR WORKING INTERESTS IN OIL OR**
3 **GAS PROPERTY.**

4 (a) IN GENERAL.—Section 469(c) of the Internal
5 Revenue Code of 1986 is amended by striking paragraph
6 (3).

7 (b) CONFORMING AMENDMENT.—Paragraph (4) of
8 section 469(c) of such Code is amended—

9 (1) by striking “Paragraphs (2) and (3)” and
10 inserting “Paragraph (2)”, and

11 (2) by striking “PARAGRAPHS (2) AND (3)” in
12 the heading and inserting “PARAGRAPH (2)”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 the date of the enactment of this Act.

16 **SEC. 5. 7-YEAR AMORTIZATION OF GEOLOGICAL AND GEO-**
17 **PHYSICAL EXPENDITURES FOR ALL OIL AND**
18 **GAS EXPLORATION AND DEVELOPMENT.**

19 (a) IN GENERAL.—Section 167(h) of the Internal
20 Revenue Code of 1986 is amended—

21 (1) by striking “24-month period” each place it
22 appears in paragraphs (1) and (4) and inserting “7-
23 year period”, and

24 (2) by striking paragraph (5).

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

4 **SEC. 6. TERMINATION OF DEDUCTION FOR INTANGIBLE**
5 **DRILLING AND DEVELOPMENT COSTS.**

6 (a) IN GENERAL.—Section 263(c) of the Internal
7 Revenue Code of 1986 is amended by adding at the end
8 the following new sentence: “This subsection shall not
9 apply to any taxable year beginning after the date of the
10 enactment of this sentence.”.

11 (b) CONFORMING AMENDMENTS.—Paragraphs (2)
12 and (3) of section 291(b) of such Code are each amended
13 by striking “section 263(c), 616(a),” and inserting “sec-
14 tion 616(a)”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 the date of the enactment of this Act.

18 **SEC. 7. TERMINATION OF 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) TERMINATION.—For purposes of any taxable
24 year beginning after the date of the enactment of this sub-

1 section, the allowance for percentage depletion shall be
2 zero.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to taxable years beginning after
5 the date of the enactment of this Act.

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