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S.2204 – THE REPEAL BIG OIL TAX SUBSIDIES ACT

- Last year, the five biggest private sector oil companies—BP, Chevron, ConocoPhillips, ExxonMobil, and Royal Dutch Shell Group — made a record $137 billion, and every additional penny they charge at the pump increases their profits by $200 million dollars per quarter. Yet each year Big Oil receives billions of dollars in taxpayer subsidies. The Repeal Big Oil Tax Subsidies Act eliminates these unnecessary subsidies.

- The only way to really prevent gas price spikes is an energy strategy that reduces our dependence on foreign oil by exploring responsibly and investing in clean energy technology. The Repeal Big Oil Tax Subsidies Act uses the savings from unnecessary subsidies for Big Oil to support growing clean energy industries like alternative fuel vehicles, advanced manufacturing, wind, and solar.

- The Repeal Big Oil Tax Subsidies Act would renew incentives for clean energy technologies like the Section 1603 grant program and Section 48C Advanced Energy Manufacturing Tax Credit.

- Additional savings from the Big Oil Subsidies ended by the Repeal Big Oil Tax Subsidies Act would also be used to help bring down the federal deficit.

Legislative Background

S.2204, the Repeal Big Oil Tax Subsidies Act of 2012, would eliminate over $20 billion dollars of annual tax subsidies for "major integrated oil companies" – the five biggest, most profitable private sector companies. Smaller, independent producers will not be affected. For the top five private sector oil companies, the Repeal Big Oil Tax Subsidies Act:

- **Eliminates the Dual Capacity Tax Preference:** The legislation modifies foreign tax credit rules to prevent Big Oil companies from disguising royalty payments to foreign governments as taxes. Under current law, U.S. taxpayers subsidize big oil's production of foreign oil. Modification of the dual capacity rules would restrict companies from claiming foreign royalty payments as a credit against U.S. taxes.

- **Repeals the Domestic Manufacturing Deduction:** In 2004, the American Jobs Creation Act established the "Section 199" deduction for domestic manufacturing activities. Under the tax code, oil production is considered a manufacturing activity and eligible for a deduction of 6% of net income. This legislation repeals the Section 199 deduction for Big Oil. [CRS, 3/3/11]

- **Modifies the Intangible Drilling Cost Deduction:** Intangible drilling costs (IDC) generally include costs that have no salvage value, but are necessary for the drilling of exploratory wells or the development of wells for production. In recent years, advanced technology has greatly reduced the risk associated with finding oil. Since 1986, major integrated oil companies have been able to immediately deduct 70% of intangible drilling expenses. With oil prices over $100 per barrel, Big Oil does not need a taxpayer incentive to explore. [CRS, 3/3/11]

- **Repeals the Percentage Depletion Allowance:** Percentage depletion allows companies to recover the cost of their capital investments by deducting 15% of the revenue from the sale of oil and gas from an oil company's gross income. Under this method, total deductions could (and often do) exceed the company's capital investment. Percentage depletion was previously eliminated for major oil companies, but it still affects a number of wells owned by Big Oil. This legislation fully eliminates percentage depletion for Big Oil. [CRS, 3/3/11]

- **Modifies the Tertiary Injectants Deduction:** Tertiary injectants are used in enhanced oil recovery to drive more oil from an existing well. Types of injectants include carbon dioxide, hydrogen, water, steam, and others. Currently, taxpayers are allowed to deduct the cost of tertiary injectant expenses in the current tax year rather than capitalizing their costs and recovering them over time. The Repeal Big Oil Tax Subsidies Act requires Big Oil companies to capitalize the cost of tertiary injectants and recover those costs over time.

- **Eliminates Royalty relief for Outer Continental Shelf Deepwater Oil and Gas Production:** Sections 344 and 345 of the Energy Policy Act of 2005 provided additional mandatory royalty relief for deep water gas and oil production on the Outer Continental Shelf. This legislation repeals Sections 344 and 345, helping to ensure that Americans receive fair value for Federally-owned mineral resources.

The subsidy repeal provisions are identical to those in S.940, the Close Big Oil Tax Loopholes Act, which received the support of a majority of the Senate with a 52 – 48 vote last year. Repealing these taxpayer subsidies for Big Oil is projected to save nearly $24 billion over 10 years. [Vote #72, 5/17/11; JCT, 3/23/12]

Some of the savings from subsidy repeal would pay for the extension of expiring clean energy technology tax incentives. The Repeal Big Oil Tax Subsidies Act would renew credits and support for:

- **Residential Energy Efficiency Improvements:** The Repeal Big Oil Tax Subsidies Act would extend through 2012 the Section 25C tax credit as it existed prior to the American Recovery and Reinvestment Act, meaning it would provide a 10% tax cut of up to $500 for residential home energy efficiency improvements like the installation of efficient doors, windows, water heaters, and other appliances. Standards for property eligible under 25C are updated to reflect improvements in energy efficiency. *This proposal is estimated to cost $1.208 billion over ten years.*

- **Electric Drive Motorcycles, Three-wheeled Vehicles, and Low-speed Vehicles:** The credit would be extended through 2012, and is equal to 10% of the purchase price of the vehicle capped at $2,500 per vehicle. *This proposal is estimated to cost $9 million over ten years.*

- **Alternative Fuel Vehicle Refueling Property:** The proposal extends the 30% investment tax credit for alternative vehicle refueling property through 2012. *This proposal is estimated to cost $20 million over ten years.*

- **Cellulosic Biofuels Production:** The cellulosic biofuel producer credit is a nonrefundable income tax credit for each gallon of qualified cellulosic fuel production of the producer for the taxable year. The amount of the credit per gallon is $1.01. *A 1-year extension of this provision is estimated to cost $58 million over ten years.*

- **Algae Feedstock Cellulosic Biofuel Production:** This provision adds algae to the list of qualified feedstock for the purposes of the cellulosic biofuel production credit. *This change is estimated to cost $1 million over ten years.*

- **Biodiesel and Renewable Diesel:** The proposal extends the $1.00 per gallon tax credit for biodiesel through 2012, as well as the small agri-biodiesel producer credit of 10 cents per gallon. The proposal also extends through 2012 the $1.00 per gallon tax credit for diesel fuel created from biomass. *This proposal is estimated to cost $1.073 billion over ten years.*

- **Placed-in-service Date for the Refined Coal Production Credit:** The proposal extends through 2012 the placed-in-service deadline for qualifying refined coal facilities*. This proposal is estimated to cost $84 million over ten years.*

- **Production Tax Credit:** The proposal extends for one year the Section 45 Production Tax Credit, which provides a 2.2 cent per kw/h benefit for the first 10 years of electricity production from qualifying sources like wind, biomass, geothermal, and solar. *This proposal is estimated to cost $4.111 billion over ten years.*

- **Indian Country Coal Production:** Coal produced on land owned by an Indian tribe qualifies for a production tax credit equivalent to $2 per ton through 2012. This bill would extend the credit through 2013. *The cost of extending this provision for one year is included in the above estimate.*

- **Construction of New Energy Efficient Homes:** The proposal extends through 2012 the credit for the construction of energy-efficient new homes that achieve a 30% or 50% reduction in heating and cooling energy consumption relative to a comparable dwelling constructed per the standards of the 2003 International Energy Conservation Code. *This proposal is estimated to cost $117 million over ten years.*

- **Energy Efficient Appliances:** The proposal extends through 2012 and modifies standards for the Section 45M credit for the US-based manufacture of energy-efficient clothes washers, dishwashers and refrigerators. *This proposal is estimated to cost $325 million over ten years.*

- **Election of ITC in Lieu of PTC:** Taxpayers can elect either the Section 45 production tax credit (PTC) or the Section 48 investment tax credit (ITC) for qualified renewable energy facilities. This provision extends taxpayers' ability to claim the ITC in lieu of the PTC. *This proposal is estimated to cost $1.458 billion over ten years.*

- **Advanced Energy Manufacturing:** The American Recovery and Reinvestment Act established a 30 percent credit for investments in new, expanded, or re-equipped clean energy manufacturing projects. Eligible projects include those that manufacture products for wind and solar power production, energy efficiency, and other clean energy technologies. The Recovery Act capped the amount of credit for this program at $2.3 billion. The Repeal Big Oil Tax Subsidies Act would extend the Section 48C credit and provide an additional $2.3 billion in credits. *$2.3 billion of credits are estimated to cost $1.495 billion over ten years.*

- **Special Allowance for Cellulosic Biofuel Plant Property:** This proposal extends through 2013 the special allowance for cellulosic biofuel plant property. *This proposal is estimated to have a negligible effect on revenues over ten years.*

- **Suspension of 100 Percent-of-net-income Limitation on Percentage Depletion for Oil and Gas from Marginal Wells:** The proposal extends through 2012 the suspension on the taxable income limit for purposes of claiming depletion deductions related to marginal oil or gas wells. *This proposal is estimated to cost $136 million over ten years.*

- **Alternative Fuel and Mixtures:** The proposal extends through 2012 the $0.50 per gallon alternative fuel tax credit. *This proposal is estimated to cost $175 million over ten years.*

- **Election of Grants in Lieu of Tax Credits for Renewables:** The American Recovery and Reinvestment Act established the Section 1603 program, which allowed solar and other renewable energy companies to claim a direct federal grant in lieu of the Section 48 Investment Tax Credit or Section 45 Production Tax Credit. This legislation would extend the 1603 program for one additional year, through 2012. *This proposal is estimated to cost $1.41 billion over ten years.*

- **Mine Rescue Team Training:** This proposal extends through 2012 the tax credit available to qualified mine rescue team employees to cover the cost of mine rescue training. *This proposal is estimated to cost $2 million over ten years.*

- **Election to Expense Mine Safety Equipment:** This proposal extends through 2012 the taxpayer election to treat 50 % of the cost of any qualified advanced mine safety equipment property as an expense and allowed as a deduction. *This proposal is estimated to have a negligible effect on revenues over ten years.*

Key Facts on Provisions of the Repeal Big Oil Tax Subsidies Act

Elimination of the Dual Capacity Tax Preference

- Eliminating the Dual Capacity Preference should have no effect on the price of gasoline. According to CRS, "this provision again is a tax on profit, and in line with the economic theory of taxation, should have no effect on the firm's output or pricing decisions, and therefore no effect on the price of gasoline." [CRS, 3/8/11]

- CRS also found that eliminating the dual capacity rule could lead to increased domestic production since overseas investments would be less attractive. [CRS, 5/11/11]

Elimination of the Sec. 199 Manufacturing Tax Deduction

- The loss of the Section 199 deduction is unlikely to slow production and there is little reason to believe gas prices will increase as a result of repeal. As CRS has noted, "With current oil prices at, or near $100 per barrel in the United States, it is unlikely that firms will slow production, or close wells as the result of the loss of the Section 199 deduction….Since output does not change, there is little reason to believe that the price of oil, or gasoline, consumers face will increase." [CRS, 3/8/11]

- Leading Senate Republicans have acknowledged that Big Oil doesn't need the incentive and eliminating the Section 199 deduction is not a tax hike.

    - In 2008, Republican Senator Bob Corker and the so-called "Gang of 10" introduced an energy package that included eliminating the Section 199 manufacturing deduction for oil and gas companies. Senator Corker said, "We look at it as closing a loophole…I don't consider this a tax increase. I consider it closing a loophole." [Commercial Appeal, 8/17/08]

- Discussing the "Gang of 10" proposal to eliminate the Section 199 manufacturing deduction for oil and gas companies, Sen. Lindsey Graham said, "It doesn't increase taxes by one dime. It's an incentive. And what I think would be good public policy is to give incentives to create alternatives to oil. Not give oil companies and incentives to do what they're going to do anyway." [Fox News, 8/13/08]

Elimination of the Intangible Drilling Costs Expensing Deduction

- Since eliminating the intangible drilling costs expensing deduction would have little effect on wells already in production, output – hence prices – should be unaffected. [CRS, 3/8/11]

Extending the Section 1603 Program

- The Section 1603 program has awarded over $9.6 billion in grants to more than 22,000 renewable energy projects, supporting the installation of over 14,000 MW of generating capacity.

- Funding levels and installed renewable energy capacity by state can be found here.

- A list of 1603 awardees by state can be found here.

- Case studies of 1603 awardees can be found here.

Reauthorizing the Advanced Energy Manufacturing Tax Credit

- The Section 48C tax credit program has provided $2.3 billion for advanced energy facilities and leveraged $5.4 billion in private investment, with an estimated impact of creating 58,000 jobs.

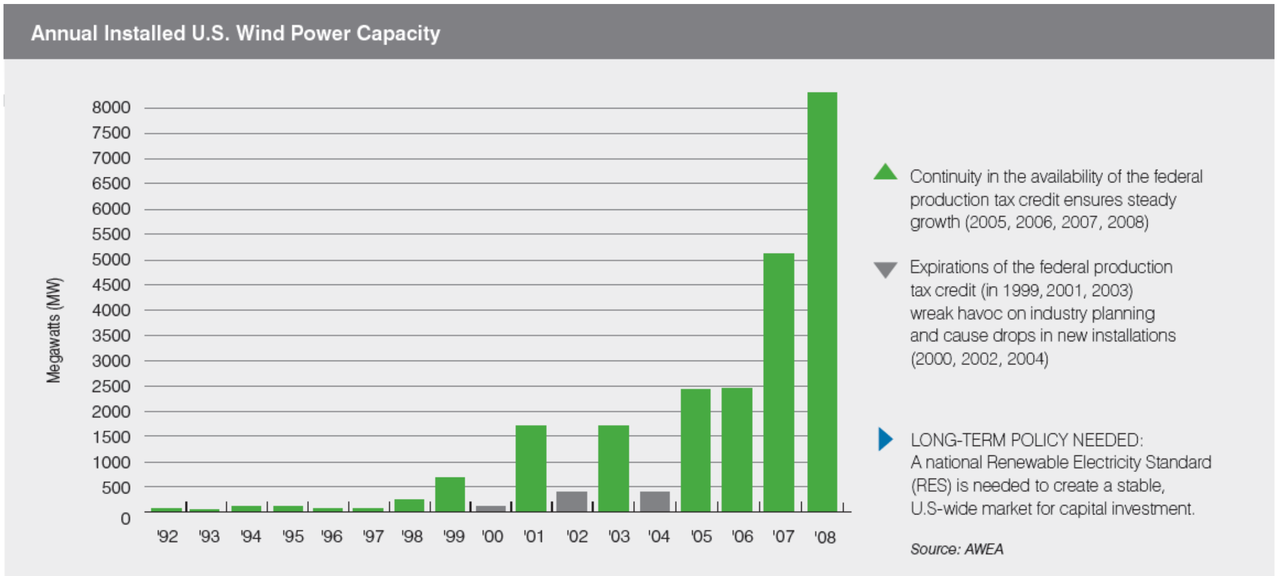
- State-by-state data for 48C awardees can be found here.

Extending the Section Production Tax Credit

- The Production Tax Credit has a proven track record of incentivizing the installation of renewable energy production. Since its last reauthorization in 2005, wind power capacity has more than tripled. [UCS, 9/13/11]

- If the Production Tax Credit is not extended, it is estimated that annual installations of wind will drop by more than 75%, wind supported jobs will decline from 78,000 in 2012 to 41,000 in 2013, and total wind investment will drop by nearly two-thirds, from $15.6 billion in 2012 to $5.5 billion in 2013. [Navigant Energy, 12/11/11]

Impact of Production Tax Credit on U.S. Wind Power Capacity



Source: Union of Concerned Scientists

Clean Energy Jobs

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