

AMENDMENT TO H.R. 4348
OFFERED BY MR. MCGOVERN OF
MASSACHUSETTS

At the end of the bill, add the following (and conform the table of contents accordingly):

1 **TITLE IV—REPEAL OF FOSSIL**
2 **FUEL SUBSIDIES FOR LARGE**
3 **OIL COMPANIES**

4 **SEC. 401. SHORT TITLE.**

5 This title may be cited as the “End Big Oil Tax Sub-
6 sidies Act of 2012”.

7 **SEC. 402. REPEAL OF FOSSIL FUEL SUBSIDIES FOR LARGE**
8 **OIL COMPANIES.**

9 (a) AMORTIZATION OF GEOLOGICAL AND GEO-
10 PHYSICAL EXPENDITURES.—

11 (1) IN GENERAL.—Subparagraph (A) of section
12 167(h)(5) of the Internal Revenue Code of 1986 is
13 amended by striking “major integrated oil company”
14 and inserting “covered large oil company”.

15 (2) COVERED LARGE OIL COMPANY.—Para-
16 graph (5) of section 167(h) of such Act is amended
17 by redesignating subparagraph (B) as subparagraph

1 (C) and by inserting after subparagraph (A) the fol-
2 lowing new subparagraph:

3 “(B) COVERED LARGE OIL COMPANY.—

4 For purposes of this paragraph, the term ‘cov-
5 ered large oil company’ means a taxpayer
6 which—

7 “(i) is a major integrated oil com-
8 pany, or

9 “(ii) has gross receipts in excess of
10 \$50,000,000 for the taxable year.

11 For purposes of clause (ii), all persons treated
12 as a single employer under subsections (a) and
13 (b) of section 52 shall be treated as 1 person.”.

14 (3) CONFORMING AMENDMENT.—The heading
15 for paragraph (5) of section 167(h) of such Code is
16 amended by inserting “AND OTHER LARGE TAX-
17 PAYERS”.

18 (4) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply to amounts paid or in-
20 curred in taxable years beginning after December
21 31, 2011.

22 (b) PRODUCING OIL AND GAS FROM MARGINAL
23 WELLS.—

1 (1) IN GENERAL.—Section 45I of the Internal
2 Revenue Code of 1986 is amended by adding at the
3 end the following new subsection:

4 “(e) EXCEPTION FOR TAXPAYER WHO IS NOT
5 SMALL, INDEPENDENT OIL AND GAS COMPANY.—

6 “(1) IN GENERAL.—Subsection (a) shall not
7 apply to any taxpayer which is not a small, inde-
8 pendent oil and gas company for the taxable year.

9 “(2) AGGREGATION RULE.—For purposes of
10 paragraph (1), all persons treated as a single em-
11 ployer under subsections (a) and (b) of section 52
12 shall be treated as 1 person.”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by paragraph (1) shall apply to credits determined
15 for taxable years beginning after December 31,
16 2011.

17 (c) ENHANCED OIL RECOVERY CREDIT.—

18 (1) IN GENERAL.—Section 43 of the Internal
19 Revenue Code of 1986 is amended by adding at the
20 end the following new subsection:

21 “(f) EXCEPTION FOR TAXPAYER WHO IS NOT
22 SMALL, INDEPENDENT OIL AND GAS COMPANY.—

23 “(1) IN GENERAL.—Subsection (a) shall not
24 apply to any taxpayer which is not a small, inde-
25 pendent oil and gas company for the taxable year.

1 “(2) AGGREGATION RULE.—For purposes of
2 paragraph (1), all persons treated as a single em-
3 ployer under subsections (a) and (b) of section 52
4 shall be treated as 1 person.”.

5 (2) EFFECTIVE DATE.—The amendments made
6 by this subsection shall apply to amounts paid or in-
7 curred in taxable years beginning after December
8 31, 2011.

9 (d) INTANGIBLE DRILLING AND DEVELOPMENT
10 COSTS IN THE CASE OF OIL AND GAS WELLS.—

11 (1) IN GENERAL.—Subsection (c) of section
12 263 of the Internal Revenue Code of 1986 is amend-
13 ed by adding at the end the following new sentence:
14 “This subsection shall not apply to amounts paid or
15 incurred by a taxpayer in any taxable year in which
16 such taxpayer is not a small, independent oil and
17 gas company, determined by deeming all persons
18 treated as a single employer under subsections (a)
19 and (b) of section 52 as 1 person.”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by this subsection shall apply to amounts paid or in-
22 curred in taxable years beginning after December
23 31, 2011.

24 (e) PERCENTAGE DEPLETION.—

1 (1) IN GENERAL.—Section 613A of the Internal
2 Revenue Code of 1986 is amended by adding at the
3 end the following new subsection:

4 “(f) EXCEPTION FOR TAXPAYER WHO IS NOT
5 SMALL, INDEPENDENT OIL AND GAS COMPANY.—

6 “(1) IN GENERAL.—This section and section
7 611 shall not apply to any taxpayer which is not a
8 small, independent oil and gas company for the tax-
9 able year.

10 “(2) AGGREGATION RULE.—For purposes of
11 paragraph (1), all persons treated as a single em-
12 ployer under subsections (a) and (b) of section 52
13 shall be treated as 1 person.”.

14 (2) CONFORMING AMENDMENT.—Section
15 613A(c)(1) of such Code is amended by striking
16 “subsection (d)” and inserting “subsections (d) and
17 (f)”.

18 (3) EFFECTIVE DATE.—The amendment made
19 by this subsection shall apply to taxable years begin-
20 ning after December 31, 2011.

21 (f) TERTIARY INJECTANTS.—

22 (1) IN GENERAL.—Section 193 of the Internal
23 Revenue Code of 1986 is amended by adding at the
24 end the following new subsection:

1 “(d) EXCEPTION FOR TAXPAYER WHO IS NOT
2 SMALL, INDEPENDENT OIL AND GAS COMPANY.—

3 “(1) IN GENERAL.—Subsection (a) shall not
4 apply to any taxpayer which is not a small, inde-
5 pendent oil and gas company for the taxable year.

6 “(2) EXCEPTION FOR QUALIFIED CARBON DI-
7 OXIDE DISPOSED IN SECURE GEOLOGICAL STOR-
8 AGE.—Paragraph (1) shall not apply in the case of
9 any qualified tertiary injectant expense paid or in-
10 curred for any tertiary injectant is qualified carbon
11 dioxide (as defined in section 45Q(b)) which is dis-
12 posed of by the taxpayer in secure geological storage
13 (as defined by section 45Q(d)).

14 “(3) AGGREGATION RULE.—For purposes of
15 paragraph (1), all persons treated as a single em-
16 ployer under subsections (a) and (b) of section 52
17 shall be treated as 1 person.”.

18 “(2) EFFECTIVE DATE.—The amendment made
19 by this subsection shall apply to expenses incurred
20 after December 31, 2011.

21 “(g) PASSIVE ACTIVITY LOSSES AND CREDITS LIM-
22 ITED.—Paragraph (3) of section 469(c) of the Internal
23 Revenue Code of 1986 is amended by adding at the end
24 the following:

1 “(C) EXCEPTION FOR TAXPAYER WHO IS
2 NOT SMALL, INDEPENDENT OIL AND GAS COM-
3 PANY.—

4 “(i) IN GENERAL.—Subparagraph (A)
5 shall not apply to any taxpayer which is
6 not a small, independent oil and gas com-
7 pany for the taxable year.

8 “(ii) AGGREGATION RULE.—For pur-
9 poses of clause (i), all persons treated as
10 a single employer under subsections (a)
11 and (b) of section 52 shall be treated as 1
12 person.”.

13 (h) INCOME ATTRIBUTABLE TO DOMESTIC PRODUC-
14 TION ACTIVITIES.—

15 (1) IN GENERAL.—Section 199 of the Internal
16 Revenue Code of 1986 is amended by adding at the
17 end the following new subsection:

18 “(e) EXCEPTION FOR TAXPAYER WHO IS NOT
19 SMALL, INDEPENDENT OIL AND GAS COMPANY.—Sub-
20 section (a) shall not apply to the income derived from the
21 production, transportation, or distribution of oil, natural
22 gas, or any primary product (within the meaning of sub-
23 section (d)(9)) thereof by any taxpayer which for the tax-
24 able year is an oil and gas company which is not a small,
25 independent oil and gas company.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall apply to taxable years begin-
3 ning after December 31, 2011.

4 (i) PROHIBITION ON USING LAST-IN, FIRST-OUT AC-
5 COUNTING FOR MAJOR INTEGRATED OIL COMPANIES.—

6 (1) IN GENERAL.—Section 472 of the Internal
7 Revenue Code of 1986 is amended by adding at the
8 end the following new subsection:

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

14 (2) EFFECTIVE DATE AND SPECIAL RULE.—

15 (A) IN GENERAL.—The amendment made
16 by paragraph (1) shall apply to taxable years
17 beginning after December 31, 2011.

18 (B) CHANGE IN METHOD OF ACCOUNT-
19 ING.—In the case of any taxpayer required by
20 the amendment made by this subsection to
21 change its method of accounting for its first
22 taxable year beginning after the date of the en-
23 actment of this Act—

24 (i) such change shall be treated as ini-
25 tiated by the taxpayer,

1 (ii) such change shall be treated as
2 made with the consent of the Secretary of
3 the Treasury, and

4 (iii) the net amount of the adjust-
5 ments required to be taken into account by
6 the taxpayer under section 481 of the In-
7 ternal Revenue Code of 1986 shall be
8 taken into account ratably over a period
9 (not greater than 8 taxable years) begin-
10 ning with such first taxable year.

11 (j) MODIFICATIONS OF FOREIGN TAX CREDIT RULES
12 APPLICABLE TO DUAL CAPACITY TAXPAYERS.—

13 (1) IN GENERAL.—Section 901 of the Internal
14 Revenue Code of 1986 is amended by redesignating
15 subsection (n) as subsection (o) and by inserting
16 after subsection (m) the following new subsection:

17 “(n) SPECIAL RULES RELATING TO DUAL CAPACITY
18 TAXPAYERS.—

19 “(1) GENERAL RULE.—Notwithstanding any
20 other provision of this chapter, any amount paid or
21 accrued by a dual capacity taxpayer to a foreign
22 country or possession of the United States for any
23 period with respect to combined foreign oil and gas
24 income (as defined in section 907(b)(1)) shall not be
25 considered a tax to the extent such amount exceeds

1 the amount (determined in accordance with regula-
2 tions) which would have been required to be paid if
3 the taxpayer were not a dual capacity taxpayer.

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

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

10 “(B) receives (or will receive) directly or
11 indirectly a specific economic benefit (as deter-
12 mined in accordance with regulations) from
13 such country or possession.”.

14 (2) EFFECTIVE DATE.—

15 (A) IN GENERAL.—The amendments made
16 by this subsection shall apply to taxes paid or
17 accrued in taxable years beginning after De-
18 cember 31, 2011.

19 (B) CONTRARY TREATY OBLIGATIONS
20 UPHELD.—The amendments made by this sub-
21 section shall not apply to the extent contrary to
22 any treaty obligation of the United States.

At the end of the bill, add the following new section:

