

108TH CONGRESS
1ST SESSION

S. 696

To amend the Internal Revenue Code of 1986 to allow a tax credit for marginal domestic oil and natural gas well production and an election to expense geological and geophysical expenditures and delay rental payments.

IN THE SENATE OF THE UNITED STATES

MARCH 24, 2003

Mrs. HUTCHISON (for herself, Mr. BREAUX, Ms. COLLINS, Mr. DOMENICI, Mr. BAUCUS, Ms. LANDRIEU, Mr. CHAFEE, Mr. ALLARD, Mr. INHOFE, Mr. LOTT, and Mr. THOMAS) 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 allow a tax credit for marginal domestic oil and natural gas well production and an election to expense geological and geophysical expenditures and delay rental payments.

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. TAX CREDIT FOR MARGINAL DOMESTIC OIL
4 AND NATURAL GAS WELL PRODUCTION.**

5 (a) PURPOSE.—The purpose of this section is to pre-
6 vent the abandonment of marginal oil and gas wells re-

1 responsible for half of the domestic production of oil and
2 gas in the United States.

3 (b) CREDIT FOR PRODUCING OIL AND GAS FROM
4 MARGINAL WELLS.—Subpart D of part IV of subchapter
5 A of chapter 1 of the Internal Revenue Code of 1986 (re-
6 lating to business credits) is amended by adding at the
7 end the following new section:

8 **“SEC. 45G. CREDIT FOR PRODUCING OIL AND GAS FROM
9 MARGINAL WELLS.**

10 “(a) GENERAL RULE.—For purposes of section 38,
11 the marginal well production credit for any taxable year
12 is an amount equal to the product of—

13 “(1) the credit amount, and
14 “(2) the qualified crude oil production and the
15 qualified natural gas production which is attrib-
16 utable to the taxpayer.

17 “(b) CREDIT AMOUNT.—For purposes of this sec-
18 tion—

19 “(1) IN GENERAL.—The credit amount is—

20 “(A) \$3 per barrel of qualified crude oil
21 production, and

22 “(B) 50 cents per 1,000 cubic feet of
23 qualified natural gas production.

24 “(2) REDUCTION AS OIL AND GAS PRICES IN-
25 CREASE.—

1 “(A) IN GENERAL.—The \$3 and 50 cents
2 amounts under paragraph (1) shall each be re-
3 duced (but not below zero) by an amount which
4 bears the same ratio to such amount (deter-
5 mined without regard to this paragraph) as—

6 “(i) the excess (if any) of the applica-
7 ble reference price over \$15 (\$1.67 for
8 qualified natural gas production), bears to
9 “(ii) \$3 (\$0.33 for qualified natural
10 gas production).

11 The applicable reference price for a taxable
12 year is the reference price for the calendar year
13 preceding the calendar year in which the tax-
14 able year begins.

15 “(B) INFLATION ADJUSTMENT.—In the
16 case of any taxable year beginning in a calendar
17 year after 2004, each of the dollar amounts
18 contained in subparagraph (A) shall be in-
19 creased to an amount equal to such dollar
20 amount multiplied by the inflation adjustment
21 factor for such calendar year (determined under
22 section 43(b)(3)(B) by substituting ‘2003’ for
23 ‘1990’).

1 “(C) REFERENCE PRICE.—For purposes of
2 this paragraph, the term ‘reference price’
3 means, with respect to any calendar year—

4 “(i) in the case of qualified crude oil
5 production, the reference price determined
6 under section 29(d)(2)(C), and

7 “(ii) in the case of qualified natural
8 gas production, the Secretary’s estimate of
9 the annual average wellhead price per
10 1,000 cubic feet for all domestic natural
11 gas.

12 “(c) QUALIFIED CRUDE OIL AND NATURAL GAS
13 PRODUCTION.—For purposes of this section—

14 “(1) IN GENERAL.—The terms ‘qualified crude
15 oil production’ and ‘qualified natural gas production’
16 mean domestic crude oil or natural gas which is pro-
17 duced from a qualified marginal well.

18 “(2) LIMITATION ON AMOUNT OF PRODUCTION
19 WHICH MAY QUALIFY.—

20 “(A) IN GENERAL.—Crude oil or natural
21 gas produced during any taxable year from any
22 well shall not be treated as qualified crude oil
23 production or qualified natural gas production
24 to the extent production from the well during

1 the taxable year exceeds 1,095 barrels or barrel
2 equivalents.

3 “(B) PROPORTIONATE REDUCTIONS.—

4 “(i) SHORT TAXABLE YEARS.—In the
5 case of a short taxable year, the limitations
6 under this paragraph shall be proportion-
7 ately reduced to reflect the ratio which the
8 number of days in such taxable year bears
9 to 365.

10 “(ii) WELLS NOT IN PRODUCTION EN-
11 TIRE YEAR.—In the case of a well which is
12 not capable of production during each day
13 of a taxable year, the limitations under
14 this paragraph applicable to the well shall
15 be proportionately reduced to reflect the
16 ratio which the number of days of produc-
17 tion bears to the total number of days in
18 the taxable year.

19 “(3) DEFINITIONS.—

20 “(A) QUALIFIED MARGINAL WELL.—The
21 term ‘qualified marginal well’ means a domestic
22 well—

23 “(i) the production from which during
24 the taxable year is treated as marginal
25 production under section 613A(c)(6), ex-

1 cept that '22 degrees' shall be substituted
2 for '20 degrees' in applying subparagraph
3 (F) thereof, or

4 “(ii) which, during the taxable year—

5 “(I) has average daily production
6 of not more than 25 barrel equiva-
7 lents, and

8 “(II) produces water at a rate
9 not less than 95 percent of total well
10 effluent.

11 “(B) CRUDE OIL, ETC.—The terms 'crude
12 oil', 'natural gas', 'domestic', and 'barrel' have
13 the meanings given such terms by section
14 613A(e).

15 “(C) BARREL EQUIVALENT.—The term
16 'barrel equivalent' means, with respect to nat-
17 ural gas, a conversion ratio of 6,000 cubic feet
18 of natural gas to 1 barrel of crude oil.

19 “(d) OTHER RULES.—

20 “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-
21 PAYER.—In the case of a qualified marginal well in
22 which there is more than one owner of operating in-
23 terests in the well and the crude oil or natural gas
24 production exceeds the limitation under subsection
25 (c)(2), qualifying crude oil production or qualifying

1 natural gas production attributable to the taxpayer
2 shall be determined on the basis of the ratio which
3 the taxpayer's revenue interest in the production
4 bears to the aggregate of the revenue interests of all
5 operating interest owners in the production.

6 “(2) OPERATING INTEREST REQUIRED.—Any
7 credit under this section may be claimed only on
8 production which is attributable to the holder of an
9 operating interest.

10 “(3) PRODUCTION FROM NONCONVENTIONAL
11 SOURCES EXCLUDED.—In the case of production
12 from a qualified marginal well which is eligible for
13 the credit allowed under section 29 for the taxable
14 year, no credit shall be allowable under this section
15 unless the taxpayer elects not to claim the credit
16 under section 29 with respect to the well.”.

17 (c) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
18 tion 38(b) of the Internal Revenue Code of 1986 is amend-
19 ed by striking “plus” at the end of paragraph (14), by
20 striking the period at the end of paragraph (15) and in-
21 serting “, plus”, and by adding at the end the following
22 new paragraph:

23 “(16) the marginal oil and gas well production
24 credit determined under section 45G(a).”.

1 (d) CREDIT ALLOWED AGAINST REGULAR AND MIN-
2 IMUM TAX.—

3 (1) IN GENERAL.—Subsection (c) of section 38
4 of the Internal Revenue Code of 1986 (relating to
5 limitation based on amount of tax) is amended by
6 redesignating paragraph (4) as paragraph (5) and
7 by inserting after paragraph (3) the following new
8 paragraph:

9 “(4) SPECIAL RULES FOR MARGINAL OIL AND
10 GAS WELL PRODUCTION CREDIT.—

11 “(A) IN GENERAL.—In the case of the
12 marginal oil and gas well production credit—

13 “(i) this section and section 39 shall
14 be applied separately with respect to the
15 credit, and

16 “(ii) in applying paragraph (1) to the
17 credit—

18 “(I) subparagraphs (A) and (B)
19 thereof shall not apply, and

20 “(II) the limitation under para-
21 graph (1) (as modified by subclause
22 (I)) shall be reduced by the credit al-
23 lowed under subsection (a) for the
24 taxable year (other than the marginal
25 oil and gas well production credit).

1 “(B) MARGINAL OIL AND GAS WELL PRO-
2 DUCTION CREDIT.—For purposes of this sub-
3 section, the term ‘marginal oil and gas well pro-
4 duction credit’ means the credit allowable under
5 subsection (a) by reason of section 45G(a).”.

6 (2) CONFORMING AMENDMENTS.—Subclause
7 (II) of sections 38(c)(2)(A)(ii) and 38(e)(3)(A)(II)
8 of such Code is amended by inserting “or the mar-
9 ginal oil and gas well production credit” after “em-
10 ployee credit”.

11 (e) CARRYBACK.—Subsection (a) of section 39 of the
12 Internal Revenue Code of 1986 (relating to carryback and
13 carryforward of unused credits generally) is amended by
14 adding at the end the following new paragraph:

15 “(3) 10-YEAR CARRYBACK FOR MARGINAL OIL
16 AND GAS WELL PRODUCTION CREDIT.—In the case
17 of the marginal oil and gas well production credit
18 (as defined in section 38(c)(4))—

19 “(A) this section shall be applied sepa-
20 rately from the business credit (other than the
21 marginal oil and gas well production credit),

22 “(B) paragraph (1) shall be applied by
23 substituting ‘10 taxable years’ for ‘1 taxable
24 years’ in subparagraph (A) thereof, and

25 “(C) paragraph (2) shall be applied—

1 “(i) by substituting ‘31 taxable years’
2 for ‘21 taxable years’ in subparagraph (A)
3 thereof, and

4 “(ii) by substituting ‘30 taxable years’
5 for ‘20 taxable years’ in subparagraph (B)
6 thereof.”.

7 (f) COORDINATION WITH SECTION 29.—Section
8 29(a) of the Internal Revenue Code of 1986 is amended
9 by striking “There” and inserting “At the election of the
10 taxpayer, there”.

11 (g) CLERICAL AMENDMENT.—The table of sections
12 for subpart D of part IV of subchapter A of chapter 1
13 of the Internal Revenue Code of 1986 is amended by add-
14 ing at the end the following item:

“45G. Credit for producing oil and gas from marginal wells.”.

15 (h) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to production in taxable years be-
17 ginning after December 31, 2003.

18 **SEC. 2. ELECTION TO EXPENSE GEOLOGICAL AND GEO-**
19 **PHYSICAL EXPENDITURES AND DELAY RENT-**
20 **AL PAYMENTS.**

21 (a) PURPOSE.—The purpose of this section is to rec-
22 ognize that geological and geophysical expenditures and
23 delay rentals are ordinary and necessary business expenses
24 that should be deducted in the year the expense is in-
25 curred.

1 (b) ELECTION TO EXPENSE GEOLOGICAL AND GEO-
2 PHYSICAL EXPENDITURES.—

3 (1) IN GENERAL.—Section 263 of the Internal
4 Revenue Code of 1986 (relating to capital expendi-
5 tures) is amended by adding at the end the following
6 new subsection:

7 “(j) GEOLOGICAL AND GEOPHYSICAL EXPENDI-
8 TURES FOR DOMESTIC OIL AND GAS WELLS.—Notwith-
9 standing subsection (a), a taxpayer may elect to treat geo-
10 logical and geophysical expenses incurred in connection
11 with the exploration for, or development of, oil or gas with-
12 in the United States (as defined in section 638) as ex-
13 penses which are not chargeable to capital account. Any
14 expenses so treated shall be allowed as a deduction in the
15 taxable year in which paid or incurred.”.

16 (2) CONFORMING AMENDMENT.—Section
17 263A(c)(3) of such Code is amended by inserting
18 “263(j),” after “263(i),”.

19 (3) EFFECTIVE DATE.—

20 (A) IN GENERAL.—The amendments made
21 by this subsection shall apply to expenses paid
22 or incurred after the date of the enactment of
23 this Act.

24 (B) TRANSITION RULE.—In the case of
25 any expenses described in section 263(j) of the

1 Internal Revenue Code of 1986, as added by
2 this subsection, which were paid or incurred on
3 or before the date of the enactment of this Act,
4 the taxpayer may elect, at such time and in
5 such manner as the Secretary of the Treasury
6 may prescribe, to amortize the suspended por-
7 tion of such expenses over the 36-month period
8 beginning with the month in which the date of
9 the enactment of this Act occurs. For purposes
10 of this subparagraph, the suspended portion of
11 any expense is that portion of such expense
12 which, as of the first day of the 36-month pe-
13 riod, has not been included in the cost of a
14 property or otherwise deducted.

15 (c) ELECTION TO EXPENSE DELAY RENTAL PAY-
16 MENTS.—

17 (1) IN GENERAL.—Section 263 of the Internal
18 Revenue Code of 1986 (relating to capital expendi-
19 tures), as amended by subsection (b)(1), is amended
20 by adding at the end the following new subsection:

21 “(k) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL
22 AND GAS WELLS.—

23 “(1) IN GENERAL.—Notwithstanding subsection
24 (a), a taxpayer may elect to treat delay rental pay-
25 ments incurred in connection with the development

1 of oil or gas within the United States (as defined in
2 section 638) as payments which are not chargeable
3 to capital account. Any payments so treated shall be
4 allowed as a deduction in the taxable year in which
5 paid or incurred.

6 “(2) DELAY RENTAL PAYMENTS.—For purposes
7 of paragraph (1), the term ‘delay rental payment’
8 means an amount paid for the privilege of deferring
9 the drilling of an oil or gas well under an oil or gas
10 lease.”.

11 (2) CONFORMING AMENDMENT.—Section
12 263A(c)(3) of such Code, as amended by subsection
13 (b)(2), is amended by inserting “263(k),” after
14 “263(j),”.

15 (3) EFFECTIVE DATE.—

16 (A) IN GENERAL.—The amendments made
17 by this subsection shall apply to payments made
18 or incurred after the date of the enactment of
19 this Act.

20 (B) TRANSITION RULE.—In the case of
21 any expenses described in section 263(k) of the
22 Internal Revenue Code of 1986, as added by
23 this subsection, which were paid or incurred on
24 or before the date of the enactment of this Act,
25 the taxpayer may elect, at such time and in

1 such manner as the Secretary of the Treasury
2 may prescribe, to amortize the suspended por-
3 tion of such expenses over the 36-month period
4 beginning with the month in which the date of
5 the enactment of this Act occurs. For purposes
6 of this subparagraph, the suspended portion of
7 any expense is that portion of such expense
8 which, as of the first day of the 36-month pe-
9 riod, has not been included in the cost of a
10 property or otherwise deducted.

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