

# API Customs Conference

Driskill Hotel  
Austin, Texas

*Legislative Report*

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**WHO DAT!**

**GO SAINTS!**

## Issues Covered

- Energy Tax legislation in the U.S. House of Representatives.
- Energy Tax legislation in the U.S. Senate.
- The President's Budget Proposal as related to Energy Tax initiatives, and the Federal Deficit.
- Change in Leadership on House Ways and Means.
- What to Expect from Congress in 2010.
- Question and Answer.

# Energy Legislation and Policy

- In the 111th Congress to continue focus its energy tax legislation primarily on increasing incentives for renewable energy production and conservation.
- The President's 2010 Budget Proposal continues to move energy policy toward promoting alternative energy sources by eliminating a number of the tax subsidies currently available to the oil and gas industry while also imposing additional taxes that would be borne—at least partially—by the oil and gas industry.

# 2009–10 House Legislation

## H.R.393

Responds to President's budget proposals and calls on Congress to keep in place the following:

- IDC tax deduction
- Percentage Depletion tax incentive
- Enhanced oil recovery tax credit
- Geological and geophysical amortization
- Manufacturing tax deduction
- Gulf of Mexico production excise tax

**4/30/2009 Referred to House Ways and Means Committee**

## 2009–10 House Legislation

### **H.R.2250 The Energy Independence Now Act 2009**

- Amends the Internal Revenue Code (IRC) to authorize tax-exempt bond financing for domestic use oil refinery facilities
- Directs the President to designate federal lands and for private sector oil or natural gas refineries
- Reverses prohibitions against spending appropriated funds for oil and natural gas leasing on the Outer Continental Shelf (OCS)

**5/22/2009 Referred to House Subcommittee on Readiness**

## 2009–10 House Legislation

### **H.R.2539 No More Excuses Energy Act of 2009**

- Tax exempt financing for U.S. refineries
- Implement competitive oil and gas leasing program

**6/1/2009 Referred to Subcommittee on Energy and Mineral Resources**

# 2009–10 House Legislation

## H.R.2631 Affordable Gas Price Act

- Increase expensing for refineries to 100%
- Class Life for *any* asset for petroleum refining
- Suspension of highway motor fuel taxes when retail gasoline exceeds benchmark

6/2/2009 Referred to Subcommittee on Energy and Mineral Resources

# 2009–10 House Legislation

## **H.R.2846 American Energy Act**

- Authorize drilling in Alaska
- Repeal Gulf of Mexico Act of 2006

**8/3/2009 Referred to House Subcommittee on Readiness**

## 2009–10 Senate Legislation

### **S.570 No Cost Stimulus Act of 2009**

- Conduct lease sales for outer Continental Shelf planning areas for which the Secretary determines that there is a commercial interest

**3/12/2009 Placed on Senate Legislative Calendar**

# 2009–10 Senate Legislation

## S.888 Oil Industry Tax Break Repeal Act of 2009

- Amends the Internal Revenue Code to:
  1. limit the oil depletion allowance;
  2. terminate accelerated depreciation of natural gas distribution lines and Alaska natural gas pipelines, expensing of equipment used in refining of liquid fuels, the tax deduction for intangible drilling and development costs and tertiary injectants, and the tax credits for enhanced oil recovery and for producing oil and gas from marginal wells;
  3. classify natural gas gathering lines as 15-year property for depreciation purposes;
  4. deny large integrated oil companies the tax deduction for income attributable to the domestic production of oil, natural gas, or related products.
- Requires large integrated oil companies to revalue their LIFO inventories of crude oil, natural gas, or other petroleum products according to a specified formula.
- Denies such oil companies a foreign tax credit for payments to certain foreign countries from which they receive a specified economic benefit as a dual capacity taxpayer.

**4/23/2009 Referred to Senate Committee on Finance**

## 2009–10 Senate Legislation

### **S.1333 Clean, Affordable, and Reliable Energy Act of 2009**

- Repeals the Gulf of Mexico Energy Security Act of 2006
- Instructs the Secretary to conduct an oil and gas leasing program within the Coastal Plain of the Arctic National Wildlife Refuge (ANWR) in Alaska.

**6/24/2009 Referred to Senate Committee on Finance**

## 2009–10 Senate Legislation

### **S.3018 Bipartisan Tax Fairness and Simplification Act of 2010**

- Changes LIFO treatment and cost of goods sold with regard to inventories of crude oil, natural gas, or any other petroleum product
- Modifies dual capacity tax payer credits

**2/23/2010 Referred to Senate Committee on Finance**

# Tax Extenders in the Senate

- On March 5, 2010 Senate Majority Leader Harry Reid filed cloture on the tax extenders legislation (H.R. 4213) intending to pass the bill on Tuesday, March 9.
- Both Senators Reid and Finance Committee Chairman Max Baucus (based on his substitute bill) stated that the Senate would hold a cloture vote on Tuesday at 2:30 pm.
- Over 90 amendments to the bill were filed on March 5<sup>th</sup>.
- **Title IV: Energy Provisions** - (Sec. 401) Extends through 2010 energy conservation and production provisions, that includes:
  - (1) tax credits for biodiesel and renewable diesel used as fuel;
  - (2) alternative motor vehicle tax credit for large hybrid vehicles;
  - (3) alternative fuel excise tax credit for natural gas and liquefied petroleum gas; and
  - (4) tax rules relating to sales required to implement federal and state restructuring policy for qualified electric utilities.

**12/9/2009 - Passed House without amendment and on 3/5/2010 a cloture motion on the bill was presented in Senate. Vote expected on cloture this Tuesday.**

# The Federal Deficit – A Summary

- According to the White House is expected to increase from \$1.4 trillion for FY 2009 and \$1.35 trillion for 2010.
- The Federal debt limit increased to \$14.3 trillion for 2010.
- Congressional Budget Office estimates that in FY2009 the American Recovery and Reinvestment Act (ARRA) resulted in additional outlays of \$112 billion and a drop in revenues of \$88 billion.
- The result was an increase in the budget deficit of \$200 billion above what it would have been.

# The President's 2010 Budget Proposal

- Proposal would repeal tax breaks intended to spur oil and gas exploration and penalize companies that don't develop wells on land leased from the government.
- Proposal over 10 years could raise:
  - \$5.3 billion by imposing a new 13% excise tax on offshore oil and gas production in the Gulf of Mexico to close loopholes that gave companies relief from certain royalty payments.
  - \$1.2 billion by charging a fee on companies that don't produce on their Gulf leases. Environmentalists say offshore drilling should not be expanded while existing leases lie fallow. But API spokeswoman Cathy Landry says unused leases are ultimately surrendered.
  - As much as \$10 billion by reinstating Superfund excise taxes and environmental income tax.
  - \$11.5 billion by barring companies from writing off drilling costs, such as labor, and by limiting their ability to write off lease payments.
  - \$13.3 billion by scrapping a 6% tax deduction that benefits all U.S. manufacturers

## Who is paying for it?

- From 2005–2007, major energy-producing companies contributed \$95.6 billion in state and federal income taxes. Petroleum companies also collect and remit to government tens of billions of dollars annually in fuel excise taxes.
- The President's 2010 Budget Proposal would have the industry's tax burden increase by over \$4 billion per year.
- All while some in Congress seek to end valuable subsidies which ensure domestic production and domestic jobs.

# The President's Energy Tax Policy

- Differs substantially from current U.S. energy tax policy.
- It would reduce or eliminate certain energy tax policies that encourage energy production from oil and gas industries, while expanding incentives for conservation from renewable energy production.
- This is a fundamental shift in energy tax policy from a policy focuses on enhancing U.S. energy security through diversification of energy resources towards a tax policy that focuses on environmental concerns (i.e., tax policy that discourages the use of fossil fuels, regardless of their nation of origin).

## Specific Tax Items in the President's 2010 Budget that Could Impact the Industry

- Repeal Section 199 Deduction
- Impose Foreign Tax Credit Limitations
- Levy Conservation Fee/Gulf of Mexico Severance Tax
- Repeal of Passive Loss Exception for Working Interests
- Repeal Marginal Well Credit
- Repeal of LIFO
- Repeal Expensing of Intangible Drilling Costs
- Increase Geological & Geophysical Amortization Period
- Repeal Percentage Depletion
- Reinstate Superfund Tax

## House Ways and Means Committee

- Chairman Rangel steps down due to allegations of failure to disclose rental income from apartments in the D.R., his use of rent-controlled apartments, and solicitation for donations of a college center named after him.
- Rep. Stark (D-CA) named chair for a day, but the Committee revolts.
- Rep. Sandy Levin (D-MI) is appointed new “temporary” chair.
- Rangel’s and Levin’s votes on major economic policy issues over the years are found to be similar.

## What is Next for Ways and Means?

- Historically the Committee has had “baronial” chairmen.
- With the “new” Democrat control of Congress, the House Speaker’s office has asserted more authority over the Committee agenda.
- As stated by Rep. Kevin Brady (R-TX), *“If the committee is going to be run out of the speaker’s office, I am not sure it matters [who chair’s the committee].”*
- Chairman Levin was for many years the Ranking Member and until this past week the Chairman of the Trade Subcommittee, and is a “friend” of organized labor and the U.S. auto industry.
- Will the Committee become less business friendly than it was under former Chairman Rangel? Is Levin the “safe” choice for Leadership or Committee Members?

# What to Expect from Congress in 2010

# Question & Answer Session

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