BIG OIL AGREES TO ACCEPT EQUAL TAX TREATMENT

HOUSE COMMITTEE ON OVERSIGHT AND REFORM
SUBCOMMITTEE ON THE ENVIRONMENT

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KHANNA SAYS: BIG OIL SHOULD GIVE UP THEIR PREFERENTIAL SUBSIDIES IN THE INFRASTRUCTURE BILL.

On Earth Day, April 22nd, 2021, a representative of an oil industry trade association testified to the Environment Subcommittee of the Committee on Oversight and Reform that they were willing to accept the same tax treatment that other industries receive. Chairman Ro Khanna convened the hearing to investigate the ways that fossil fuel subsidies enrich fossil fuel interests and impair the United States government from meeting the carbon pollution reductions necessary to prevent worsening climate change.

According to the IMF, the U.S. government ranks second in the world in its support of the oil and gas industry. The U.S. federal and state governments give the fossil fuel industry over $20.5 billion in support each year through the tax code, inadequate royalty rates, and direct funding. Big fossil fuel companies claimed $8.2 billion in 2020 from the CARES Act pandemic relief bill.

Chairman Khanna detailed a number of subsidies that only the oil and gas industry receive. Those include: The Deduction for Intangible Drilling Costs, Last-In, First-Out (LIFO) Accounting for Fossil Fuel Companies, Corporate Tax Exemption for Fossil Fuel Master Limited Partnerships (MLPs), Percentage Depletion, and Dual Capacity Taxpayer Deduction.

The United Nations Intergovernmental Panel on Climate Change (IPCC) has stated clearly that the world has less than a decade left to make significant reductions in carbon pollution emissions. The IPCC is also explicit that fossil fuel subsidies must end. Curbing subsidies for this industry would also advance racial justice. Black people are disproportionately affected by fossil fuel pollution. Black Americans have 1.54 times more exposure to harmful particulate matter than the rest of the country due to where petrochemical and related facilities are located.

The Oil and Gas Industry is 'Certainly Fine Being Treated Like Every Other Industry.'

Under questioning from Chairman Khanna, Mr. Frank Macchiarola of the American Petroleum Institute stated that the oil and gas industry is "certainly fine being treated like every other industry." He also said, "If you want to take the entire tax code and treat the oil and gas industry as every other industry, we're happy to do that."

Globally renowned experts also testified at the hearing, including: Greta Thunberg, Swedish Climate Activist, Tara Houska, Native American attorney and Founder, Giniw Collective; Dr. Joseph Aldy, Professor, Harvard University; Pete Erickson, Climate Policy Program Director, Stockholm Environment Institute; Jill Antares Hunkler, Seventh-Generation Ohio Valley Resident, and Frank J. Macchiarola, Senior Vice President, Policy, American Petroleum Institute.

Ms. Thunberg stated in her testimony that **"the fact that we are . . . still subsidizing fossil fuels, directly or indirectly, using taxpayer money, is a disgrace. It is a clear proof that we have not understood the climate emergency at all."** She also testified in response to a question from Chairman Khanna that repealing fossil fuel subsidies **"should be one of the top priorities."**

Khanna Recommends Ending Oil and Gas subsidies in the American Jobs Plan.

- **Deduction for Intangible Drilling Costs (IDCs)**

Oil and gas companies are afforded a deduction for costs that are intangible to the development of oil and gas property. This includes costs from wages, chemicals, or other items that do not have a salvage value. The cost is either 70% or 100% deductible (depending on the type of company) for developing an oil or gas well.

- **Last-In, First-Out (LIFO) Accounting for Fossil Fuel Companies**

Last-in, first-out accounting allows companies to use the cost of the most recently acquired products as the cost of goods sold. When oil and gas prices are rising for fossil fuel companies, they can use the higher cost of the more recently acquired inventory as the cost for that inventory. The total sales minus the cost of those sales results in the taxable income for the company. LIFO allows a company to show artificially high cost of sales, which results in a tax benefit. The energy sector holds more than a third of LIFO reserves.

- **Corporate Tax Exemption for Fossil Fuel Master Limited Partnerships (MLPs)**

Master Limited Partnerships are a business structure primarily utilized by natural resource firms. Oil and gas companies are permitted to use this structure to organize as partnerships that are not subject to corporate taxes. However, ownership interests can still be traded like corporate stock. Using this structure, oil and gas companies pay zero corporate income tax.

- **Percentage Depletion**

Independent oil and gas producers who operate domestically can use preferential depreciation rules to deduct a percentage of revenue for producing oil or gas. This contrasts with cost depletion, which allows for tax deductions based on the approximate value of a project. Oil and gas prices, which determine the revenue, are driven by a global market. The percentage depletion being tied to revenue instead of the project costs divorces this benefit from the project cost. The deduction is 15% of revenue for oil and gas, and 10% of revenue for coal.

- **Dual Capacity Taxpayer Deduction**

This allows oil and gas companies, like any U.S. taxpayer, to deduct income taxes that are paid to a foreign government. Oil and gas companies have used this deduction to offset their U.S. income taxes with royalty payments made to foreign governments on fossil fuels. This lowers the amount oil and gas companies pay in U.S. taxes.

Good Reasons to Eliminate Big Oil's Special Tax Treatment

1. **Fossil fuel subsidies are lining the pockets of fossil fuel CEOs.** Mr. Erickson's research found, "over 96% of the value of the subsidies in the tax code goes directly to profits over and above the minimum investment hurdle rates that would be required to actually make those new investments happen."

2. **Fossil fuel subsidies are a bad deal for American taxpayers.** Dr. Aldy testified that "the fuels look cheap because we are not accounting for the fact that we are posing significant public health costs and . . . costs to our infrastructure in the future, the risk of dying prematurely in the future, the risk of disastrous storms, of forest fires out west. Those are the costs. The benefits are going to the shareholders of these companies. It's not actually increasing economic activity."

3. **The fossil fuel industry receives a great return on investment.** Rep. Katie Porter noted that "the fossil fuel industry . . . in 2020 . . . spent $139 million on political donations and $111 million lobbying." In return for these political contributions, the industry received a whopping $15 billion in federal relief in 2020, in addition to its annual $15 billion in federal fossil fuel subsidies. As if that was not bad enough, the industry laid off 107,000 workers in that same time period.

4. **Fossil fuel subsidies drive investments in fossil fuels that disproportionately affect Black, Brown and Indigenous people.** In response to questions from Rep. Cori Bush, Ms. Houska testified that "it is always Black and Brown folks and poor folks who are dealing with these impacts disparately over everyone else. We are the ones that are getting cancer. We are the ones that are forgotten. We're the sacrifice zones."

5. **Fossil fuel jobs are dangerous jobs and the industry overstates its job creation.** Ms. Hunkler testified that she “witnessed a former oilfield service operations manager react in shock and anger,” to information regarding the “potential radiological exposure . . . which are largely ignored by U.S. oil and gas operators.” She also testified that in the years since the fracking boom began, their community “lost more than 6,500 jobs, according to data from the Bureau of Economic Analysis and the Bureau of Labor Statistics.”