AFPM American Fuel & Petrochemical Manufacturers The new NPRA.

FACT SHEET: Section 199

As policymakers debate fiscal issues, including deficit reduction efforts, some have called for the targeted repeal of "Section 199" for the oil and gas industry. Section 199 is a critical tax deduction that is widely available to numerous American industries. AFPM strongly opposes singling out the oil and gas industry for repealing this deduction. AFPM also encourages policymakers to consider the impacts on domestic manufacturing jobs from the repeal of Section 199 when judging the trade-offs between base-broadeners and rate reduction in comprehensive tax reform.

- The American Jobs Creation Act of 2004 enacted the "Section 199 manufacturing deduction" that provides needed tax relief for domestic manufacturers to help stimulate manufacturing activity in the United States. This bill was passed to replace a previous tax structure that was developed to keep American manufacturing competitive in the global marketplace. This bill was designed to generate good-paying manufacturing jobs in the United States.

- Petroleum refining, petrochemical manufacturing and the production of domestic oil and natural gas resources are eligible for this deduction. The deduction is needed to keep American fuel and petrochemical manufacturers competitive in an increasingly tough global market place.

- The Section 199 manufacturing deduction is not a "subsidy" to the oil and gas companies, but rather this deduction is available to any qualifying income from any domestic manufacturer including those not in the oil and gas sector. In fact, the amount of the deduction is lower for the oil & gas industry than it is for other domestic manufacturers, as described below.

- The Emergency Economic Stabilization Act of 2008 allowed all qualifying domestic manufacturers to continue to claim a deduction equal to 9% of their qualifying non oil and gas net income, but limited the deduction for companies in the oil and gas industry to just 6% of qualifying oil and gas income. Hence, other domestic manufacturers receive a deduction 50% greater under current law than afforded oil & gas companies, with respect to most of their qualified income. Other companies claim more than 75% of the section 199 deduction.

- Industries that use the larger Section 199 deduction include sound recording, television or film production, potable water production, computer software, automobile manufacturers, residential or commercial building construction and architectural services such as consulting, planning or designing.

Why do refiners need the section 199 deduction?

- Section 199 allows domestic fuel and petrochemical manufacturers to be competitive against foreign fuel and petrochemical manufacturers, thus increasing domestic employment at a time when so many manufacturing jobs are moving overseas to countries like China and India. With the oil and gas boom in the United States, Section 199 encourages United States manufacturers, besides just the refining and petrochemical manufacturers, to continue investments and employment domestically.

- At the height of the recession, the American refining industry lost over 506,000 thousand barrels per day of domestic refining capacity and nearly 3,000 direct jobs. American refiners operate in an extremely competitive global marketplace, and must compete against foreign operations that have drastically expanding capacity and lower operating costs. Higher taxes on American production make domestic operations less competitive globally.

What would repealing Section 199 do?

- Increasing taxes (by repealing Section 199 without a corresponding substantial reduction in the corporate income tax rate) would make gasoline and other finished petroleum products more costly for American consumers and could increase dependence on foreign oil and finished petroleum products.[1]

- According to a study by Wood Mackenzie in 2011[2], the repeal of Section 199 and other proposed tax changes could place as much as 600,000 barrels of oil equivalent per day (boe/d) at risk and by 2017, more than 10% of U.S. oil and gas productive capacity could be compromised.

- Increasing taxes on refineries would force companies to make tough choices on domestic investment, potentially sending more fuel manufacturing and jobs overseas and eventually increasing consumer fuel costs. American refiners would be at a competitive disadvantage to foreign refiners, forcing consumers to rely on foreign producers for more of their gasoline, diesel, jet fuel and home heating oil.

Conclusion

Congress should reject calls to repeal the Section 199 deduction and other increases in taxes for American fuel and petrochemical manufacturers because such changes will increase consumer costs and further foreign dependence on oil. Congress should instead seek to grow U.S. manufacturing by lowering the tax and regulatory burdens on U.S. fuel and petrochemical manufacturing industries and other job creators.

[1] Congressional Research Service. "Oil and Natural Gas Industry Tax Issues in the FY2013 Budget Proposal." March 2, 2012

[2] Wood Mackenzie Energy Consulting, "Energy Policy at a Crossroads: An Assessment of the Impacts of Increased versus Higher Taxes on U.S. Oil and Natural Gas Production, Government Revenue, and Employment." June 24, 2011.