

[COMMITTEE PRINT]

SUMMARY OF TESTIMONY ON THE  
PROPOSED "EMERGENCY WINDFALL  
PROFITS TAX"

AT THE  
PUBLIC HEARINGS

HELD BY THE  
COMMITTEE ON WAYS AND MEANS  
FEBRUARY 4-7, 1974

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PREPARED FOR THE USE OF THE  
COMMITTEE ON WAYS AND MEANS

BY  
THE STAFF

OF THE  
JOINT COMMITTEE ON INTERNAL  
REVENUE TAXATION



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## SUMMARY OF TESTIMONY ON THE PROPOSED "EMERGENCY WINDFALL PROFITS TAX"

The Committee on Ways and Means held public hearings during February 4-7, 1974, on the subject of the Administration's proposed "Emergency Windfall Profits Tax" and other related proposals dealing with taxation of the petroleum industry.

Summarized below are the comments of witnesses at the public hearings, as well as written statements received by the committee.

### A. PUBLIC TESTIMONY

#### Hon. George P. Shultz, Secretary of the Treasury (February 4):

##### *General background on oil production and profits*

Indicates that prior to the oil embargo, the U.S. demand for oil had increased to an annual rate of about 17 million barrels of oil per day, with 11 million being produced domestically (an output capacity level reached around 1970). Attributes lack of domestic output growth to: (1) Government regulation of natural gas prices at artificially low levels; (2) rising costs of discovering additional on-shore reserves; (3) delays in drilling outer continental shelf prospects; (4) delays in output from Alaskan and off-shore California fields due to environmental and leasing questions; and (5) Government regulation of domestic crude oil prices. Thus, greater reliance has had to be made upon imported oil.

States that most of the oil profits produced by the very major increases in the price of imported crude oil in 1973 have gone to the foreign governments that own or control the oil, in the form of higher taxes or royalties. Notes, however, that a significant part of the increased profits from this source has gone to U.S. companies, primarily as a result of sales in foreign countries and, to a lesser degree, on sales to U.S. customers. Maintains that it is important to keep in mind that increased profits are not necessarily "excessive" profits.

Indicates that their preliminary data show that the 1973 profit increases are primarily attributable to foreign inventory profits from skyrocketing prices, increased profits and efficiencies in foreign refinery and other operations unrelated to prices paid by U.S. consumers. Points out that if the shortage in 1974 produces even higher prices for oil, this would cause increased profits to major oil companies from domestic oil sales, as the ability to increase domestic supplies is limited in the short run.

##### *"Windfall profits" tax on oil production*

Maintains that U.S. oil prices must adjust upward if higher cost methods are to be used to satisfy demand. Feels, however, that short run price increases above the level necessary to call forth adequate supplies give rise to windfall profits, and that such profits may be

taxed very heavily without impeding desired free market processes and legitimate profit expectations and without imposing additional price increases to consumers.

Defines a windfall profit as one resulting from a change in price caused by a circumstance which is accidental and transitory—such as the oil embargo. Believes that for the next year or two, the price rises which already have occurred are more than sufficient to call forth the additional domestic oil needs to be produced.

*Windfall tax proposal.*—Forecasts a long-term supply price of oil to be about \$7 per barrel, or about 50 percent above mid-1973 levels. Thus, concludes that a tax which bites hard on immediate price increases should not interfere with the production of needed oil supplies if it gradually phases out so that after three years there will be no windfall tax on oil prices at \$7 or less per barrel. Selects the Cost of Living Council ceiling price on oil as of December 1, 1973, as the base price (\$4.00) for computing the tax on the excess price, at rates ranging from 10 percent to 85 percent depending on the excess amount (tax is per 42-gallon barrel of crude oil) :

Excess amount over base price	Bracket tax rate (percent)	Bracket tax (cents)	Cumulative tax (cents)
0 to \$0.50	0	0	0
\$0.51 to \$0.75	10	2½	2½
\$0.76 to \$1.10	20	7	9½
\$1.11 to \$1.70	30	18	27½
\$1.71 to \$2.50	50	40	67½
\$2.51 plus	85		

Indicates that Treasury regulations would prescribe that the top level of lowest bracket and the bottom level of each higher bracket would be automatically adjusted upward monthly in the uniform percentage required to make the 10-percent rate applicable after 36 months only to amounts in excess of the expected long-run supply price of \$7 per barrel. The portion of the price increase which remained after payment of the Windfall Profits Tax would be subject to ordinary income tax.

Contends that the phaseout of the tax as the windfall disappears assures that the tax will not cause higher prices for consumers.

Explains that the windfall tax would be imposed upon the oil producer at the time of sale of the crude oil or at the end of the month if not sold, with the tax collected and remitted on a monthly basis. Notes that the amount of the windfall tax is to be subtracted from gross income from the oil property before computing percentage depletion. Because the period of extraordinary profits is expected to be limited, proposes that the windfall tax expire after 60 months to give Congress an opportunity to review the tax.

*Price rollbacks compared to windfall profits tax.*—Feels that it would be a mistake to roll back oil prices as an alternative to the windfall profits tax proposal. Argues that price rollbacks would only serve to shift profits from the U.S. to abroad and tend to dampen new investment needed to increase domestic supplies.

*Windfall profits tax compared to excise tax.*—Asserts that the windfall profits tax differs from an excise tax in that it will in fact operate to tax profits, as the portion of the price to which it will apply is above

the level required to cover costs. Points out that an excise tax would be paid on a per-unit basis regardless of the amount by which oil prices rose or didn't rise, which would be unrelated to any windfall profit.

*Windfall profits tax compared to excess profits tax.*—Contends that the classic excess profits type tax would be a nightmare of complexity and uncertainty, and that it would be difficult to design and administer a tax which would not impair the ability and incentive of oil producers to make needed investments. Considers an excess profits tax to be unworkable as no base period can be selected that is "normal" for all, nor can a "normal" rate of return be determined for all. Because of such inequities, points out that previous excess profits taxes have had complex exceptions for abnormal cases and have resulted in administrative and judicial entanglements difficult to resolve. In addition, argues that an excess profits tax would be incentive for wasteful expenditures because of the high marginal tax rates.

Comments that the windfall profits tax would only tax the person who has the windfall—the owner of crude petroleum.

#### *Exploratory drilling credit*

Reiterates April 1973 proposal for a new investment credit for exploratory drilling for domestic oil and gas. Claims that it would have a significant incentive effect on exploratory drilling.

#### *Minimum taxable income*

Repeats the April 1973 proposal to replace the minimum tax on tax preferences (which includes percentage depletion) with a "minimum taxable income" concept whereby a taxpayer's aggregate tax incentives could not exceed half of his "economic income." Concludes that the proposal would have minimal impact on the percentage depletion incentive in the aggregate and would not significantly offset capital investment for increased production.

#### *Limitation on accounting losses*

Also requests action on the April 1973 proposal to limit artificial accounting losses so that losses could be used only to offset income from oil and gas properties, and not to offset other income.

#### *Foreign tax credit*

*Excess tax credits.*—Notes that the basic concept of the foreign tax credit system is utilized by the major industrial countries to prevent double taxation on income earned abroad subject to tax in that foreign country. Indicates that much of the complication in the present system arises out of desire of taxpayers to average or not to average (depending upon the circumstances) the income and taxes of high tax and low tax countries.

Points out that the oil producing countries impose taxes at very high rates that produce large "excess tax credits" which, under existing rules, can be used (for companies on an overall limitation) to eliminate the tax that the U.S. would otherwise pick up in the low tax or tax haven countries. Believes that this has been distorted in the case of oil producing countries, especially since their tax is based upon a fictitious posted price normally higher than the market price for oil.

Recommends treating part of these foreign taxes as non-creditable (but deductible as an ordinary expense) to the extent they exceed the U.S. tax rate. The proposed new limit would be computed separately for each foreign country and thus aggregated with other creditable taxes and subjected to the normal per-country or overall limitation. Excess tax credits accumulated in taxable years beginning after the effective date of the proposal (taxable years ending after December 31, 1973) could be carried over to later years as under present law, but they would be denied to the extent they could not have been utilized had the change not been enacted.

Does not consider it possible to estimate revenue gain from this proposal with any precision because of possible changes in taxpayer activity, but it would be about \$400 million assuming no change. Indicates that the proposal would foreclose the potential of a \$1 billion revenue loss if the existing system were utilized by more companies.

*Recovery of foreign losses.*—States that the April 1973 proposal would modify the foreign tax credit provisions to require that where a U.S. taxpayer has deducted foreign losses against U.S. income, such losses would be taken into account to reduce the amount of foreign tax credit claimed by such taxpayer on foreign earnings in later years. Estimates the revenue gain from this proposal at \$100 million annually after 5 years.

*Foreign percentage depletion for oil and gas*

Recommends elimination of percentage depletion for oil and gas produced in foreign countries. The estimated revenue gain is \$50 million. Points out that percentage depletion is not allowed, or is at a lower rate, for foreign production of a number of other minerals.

**Independent Petroleum Association of America, C. John Miller,  
President (February 5):**

*C. John Miller, Partner, Miller Brothers, Allegan, Michigan*

Indicates that independent explorers and producers of oil and gas have accounted for 75 to 80 percent of the exploratory or "wildcat" drilling of new reserves. Points out that both the number of independent producers and the number of exploratory wells drilled have declined by more than 50 percent since 1956. Contends that the quickest and cheapest way of providing new energy sources is to revitalize the independent producers.

Asserts that domestic oil producers are not reaping windfall profits and that even higher crude oil prices may be necessary to bring forth the quantities of crude oil necessary to meet demands and to reduce our reliance on costly and insecure foreign oil. Maintains that the domestic producing oil industry has been in a deteriorating economic condition since the late 1950's due to increasing costs and decreasing *real* prices of domestic crude oil and natural gas. This has resulted in curtailment of domestic exploration activities.

*Windfall tax proposal.*—Feels that a windfall profits tax is unjustified for domestic oil producers as this would tend to reduce available capital at a time when exploration and development expenditures must be doubled or tripled to achieve domestic energy self-sufficiency.

Believes that it is too early to assess whether there are any true "windfall" profits. Maintains that, in any event, the petroleum industry should not be singled out for a "windfall" or excess profits tax.

Suggests that if such a tax is enacted that it be truly a tax on profits and not a tax on prices or production, and that the tax does not serve to reduce or restrict needed capital investments. Recommends that there also be a clearly-defined provision that allows and encourages the funds to be invested in projects which expand energy supplies—a so-called "plowback" provision. Such a provision should allow a tax credit for all costs incurred in connection with the exploration and development of new domestic supplies and the initiation of any new project, such as secondary, tertiary programs designed to increase ultimate recoveries from wells. The provision should also allow an adequate time period for the reinvestment in qualifying projects.

*Depletion allowance.*—Claims that any further reduction in the percentage depletion allowance would cause more decreases in exploration and development expenditures. Points out that such expenditures have dropped significantly since the Tax Reform Act of 1969, which reduced the depletion rate.

*Limitation on artificial accounting losses.*—Maintains that this proposal would serve to diminish the flow of risk capital into exploration, and that even the threat of such legislation tends to dry up these funds.

*Minimum taxable income.*—Contends that this proposal would also have undesirable effects on raising risk capital as it restricts aggregate tax incentives.

*A.V. Jones, Jr., President, National Stripper Well Association and Partner, A. V. Jones & Sons, Albany, Texas*

Indicates that the rate of well abandonments has accelerated because of a declining real price of domestic crude oil and rising marginal costs. Opposed proposals to roll back price increases or to tax "excess profits" because they would hinder expanded domestic exploration and production.

*Sheldon K. Beren, Executive Committee Member, Kansas Independent Oil & Gas Association and Manager, Okmar Oil Company of Kansas*

Asserts that any legislation that reduces the incentive for finding new oil and the incentive to keep and improve small, existing wells will reduce drilling and exploration on a direct one-to-one ratio.

Proposes two tax changes for the small independent producer (for owners of a maximum of 7500 net barrels of domestic crude oil per day):

(1) increase the depletion allowance for working interests in oil and gas from 22 percent to 30 percent and increase the limitation on net income from 50 to 75 percent of taxable income.

(2) provide a 14 percent investment credit for exploration and development drilling in new fields.

*D. F. McKeithan, Jr., Chairman, Liaison Committee of Cooperating Oil and Gas Associations*

Maintains that the average independent must have both higher prices and incentives for outside investment to finance the risky business of drilling. Recommends a "plowback principle". Favors also in-

vestment tax credits for exploratory drilling, elimination of the 50-percent net income limitations on domestic depletion to help expand stripper well operations, and an increase in depletion to domestic producers who expend funds for drilling operations.

Urges Congress to develop a long-range national energy policy as soon as possible.

*John R. Dorr, President, Permian Basin Petroleum Association.*

Makes the following tax-related recommendations:

- (1) Give preferential treatment to small domestic, independent oil producers (generally, 60 or less employees).
- (2) Increase the depletion allowance for small producers to 35 percent and eliminate the 50-percent limitation on net incomes; or alternatively, provide for a plowback incentive.
- (3) Increase the intangible drilling expense deduction to 200 percent of cost on strictly wildcat operations, to be earned by plowing back the amount into the oil operation.
- (4) Provide a maximum 10-year depreciation schedule for certain oil production equipment.
- (5) Do not set up an energy trust fund financed by direct taxes on production or Btu's.

*George P. Mitchell, President, Texas Independent Producers and Royalty Owners Association and President, Mitchell Energy & Development Corp, Houston, Texas*

Urges Congress to retain tax incentives to encourage domestic exploration and development, with any disincentives to discourage exploration abroad. Suggests that, if Congress decides to moderate oil profits, the so-called excess profits should be encouraged to be reinvested into domestic exploration and development through a plowback provision.

**Chamber of Commerce of the United States, Walker Winter, Chairman of Taxation Committee and Robert R. Statham, Director of Taxation and Finance (February 5):**

*Windfall or excess profits tax*

Claim that the Administration's "Emergency Windfall Profits Tax" is in effect an excess profits tax. Maintain that an excess profits tax runs counter to the competitive enterprise system by Government regulation of an industry's profits. Believe that the tax is also economically unsound and would discourage capital investment and encourage wasteful expenditures. Assert that the tax is administratively cumbersome, as evidenced by previous experiences in wartime.

*Renegotiation approach to excess profits*

Object to the provision in the proposed Energy Emergency Act (Title I, Section 110) that would permit petitioning of the Renegotiation Board for price rollbacks if it determined "windfall" profits. Maintain that the renegotiation process is a wartime device for determining excessive profits on defense-related Government contracts and is not designed for such price rollbacks; renegotiation is time-consuming and expensive for business; the proposal establishes arbi-

trary and capricious procedures for determining windfall profits; and the proposal may be unconstitutional, which could result in lengthy litigation to resolve the dispute.

*Foreign depletion and intangible drilling and development costs*

Oppose any legislation that would increase the tax burden on American businesses abroad either directly or indirectly. Contend that there is no evidence to support the claim that elimination of these foreign tax incentives would likely lead to increased domestic exploration and development.

*Foreign tax credit*

Reject proposals that would require some or all of taxes paid to foreign governments be treated as deductions instead of tax credits. Urge retention of the present overall limitation and per-county limitation methods of computing the foreign tax credit.

*Depreciation policy*

Recommends revision of capital cost recovery allowances to encourage more capital investment in energy exploration, energy producing and energy saving machinery and equipment. Suggest adoption of the 40-percent Asset Depreciation Range System as proposed by the President's 1970 Task Force on Business Taxation.

**Standard Oil Company of Ohio, Alton W. Whitehouse, Jr., President (February 5):**

*Windfall profits tax*

Expresses philosophical opposition to profit-limiting legislation as as contrary to the American enterprise system. If such a tax is to be imposed, believes it should be applied to all industries to avoid creating competitive disadvantages in capital markets. Suggests, also, that provision be made for plowback exemptions for energy development or research investments, and that the tax have a termination date. Asserts that a tax assessed at the wellhead can be counterproductive and discriminate against the small producer.

*Depletion and intangible drilling costs*

Urges retention of domestic investment tax incentives for depletion and intangible drilling costs but modified to require plowback of tax benefits into energy-related investments.

*Foreign tax credit*

Recommends retention of the foreign tax credit provision. Does not object to a review of the question of payments to foreign governments with respect to their use as foreign tax credits.

**Walter T. Hughes, Hughes Brothers Fuel Co., Wilmington, North Carolina (February 5):**

*Depletion allowance*

Contends that the depletion allowance is not an incentive for increasing exploration and production of crude oil but rather an incentive to dominate and control the market from the well to the pump

and to restrict the importation of foreign crude oil when it is priced lower than domestic crude. Points out that the depletion allowance does not require reinvestment of the tax benefits in exploration and production of crude oil but has permitted reinvestment and expansion to acquire refineries, independent marketing companies and retail outlets, and independent crude producers, which has reduced competition by squeezing the independents and then encouraging acquisition by the major oil companies with the tax-free money from the depletion allowance.

Indicates that the major integrated oil companies were able to do this by transferring their crude production from the crude segment to their refining segment at a high enough per barrel price to generate for themselves the necessary profits at the well to enable them to take the maximum depletion deduction.

Recommends elimination of the depletion allowance with respect to crude oil production.

*Windfall profits tax*

Approves of the windfall profits tax if it can be passed without further damaging independent refiners and independent marketers.

**American Petroleum Institute, Mid-Continent Oil and Gas Association, Rocky Mountain Oil and Gas Association, and Western Oil and Gas Association (February 6):**

*John E. Swearingen, Chairman, Standard Oil Company of Indiana*

*General.*—Recaps previous testimony warning of political and economic unreliability of foreign oil supplies, indicating recent developments in Middle East have borne him out. While long-run alternatives from such nonconventional domestic sources as nuclear electricity generation, liquefaction or gasification of coal, development of shale and offshore oil deposits exist, the cost of development will be high and it will likely be a decade before such sources contribute significantly to the total energy flow. Indicates that the immediate prospect is continuing shortages. Feels that the stability of foreign crude oil prices characteristic of the 1960's has disappeared. Points out that foreign nations have increased by 700 percent their share of the income from private oil production, currently averaging \$7 per barrel. Even Canada through an oil export tax, nonexistent until November 1973, is charging \$6.40 a barrel. At same time, U.S. oil imports are up dramatically from 23.5 percent of domestic consumption in 1970 to 36 percent in 1973. Argues this has had an adverse impact on U.S. balance of trade and U.S. retail prices for refined products which have increased nearly 20 percent in the case of gasoline and 47 percent in the case of fuel oil. Contends that recent Arab oil production cut-backs have only cast additional doubt on previous assumption that U.S. could rely on foreign imports to bridge gap between domestic supply and demand at same low price level. Indicates these developments plus imposition of mandatory production allocations have slowed growth in U.S. oil consumption since October for the first time in years. Forecasts need for mandatory limits on consumption if Arab oil embargo continues, but in the absence of the embargo, voluntary restraint will do. Feels one bright spot is that price increases

make it more attractive to develop alternative domestic energy sources, previously considered too costly.

*W. L. Henry, Executive Vice President, Gulf Oil Corporation*

In general argues that tax incentives are needed now more than ever.

*Depletion and intangible drilling costs.*—Argues while nonfinancial factors need to be present, these tax incentives do attract and retain risk capital for expansion of production. While industry's expenditures in exploration and drilling were twice the amount of statutory depletion allowance, future effort has to expand and every tax incentive is needed. Contends that the 1969 reduction in depletion allowance and subjecting it to 10-percent preference tax added \$500 million tax burden to oil industry and has had a negative impact on domestic exploration in excess of 20 percent. Claims price controls and foreign competition previously prevented passing on added tax costs to the consumer. Concludes situation would be even worse without present depletion allowances; their further diminution would result in unforeseen long-term public costs.

*Foreign tax credit.*—Discusses the economic and strategic benefits of international involvement by U.S. oil industry. Declares future access to diverse foreign oil supplies is best assured through international operations of U.S. oil companies. Adds their profits help our balance of payments. Doubts continued viability of these operations without foreign tax credit since foreign competition enjoys at least as favorable treatment from their governments. Favors retention of present tax credit to avoid double taxation and to ensure equal treatment of foreign and domestic income. Denies domestic exploration would increase as a result of reducing foreign tax credit. Decries proposals to eliminate the *overall* method of computing foreign tax credit since foreign competition enjoys this option, and it mirrors the needs of large multi-national, vertically integrated foreign operations. Similarly, less integrated firms need the *per-country* method option as do companies with high loss experience in foreign exploration. Objects to fixed application of either method of computing foreign tax credit. Rejects contentions that the foreign tax credit is designed to favor oil industry—oil companies use it more than any other industry because they have bigger foreign investments in high tax countries.

*Administration's foreign credit tax proposal.*—Objects to proposed modification of the *overall* computation method which would treat as a deduction any income taxes paid to a foreign country in excess of the U.S. tax rate on the same income, instead of allowing it to be applied to reduce U.S. tax on foreign income from low tax countries, as at present. Argues would hit shipping operations of integrated corporations very hard.

*Excess profits tax.*—Sees definitional problem with word "excess." Asks when is a profit excessive? Dismisses as discriminatory attempts to tie profits to a base period, arguing a number of companies may have been performing badly during this period. Cites problem of increasing costs to attract new capital to old industries as increasingly difficult, hostile or remote frontiers are encountered in expansion efforts, not to mention the toll of inflation. Considers prospect of a big find and resulting profits does much to offset likelihood of numerous dry wells in any investment. Challenges notion that con-

sumers should not have to pay replacement cost when they consume cheaper oil from old, established fields. Doubts oil companies would have enough internally generated profits to finance exploration. Argues even profits in excess of the supply-demand equating level serve as quasi-rents to stimulate rapid development in time of severe shortage when most needed. Reasons prices would level off after supply is sufficient. Declares excess tax on foreign profits would be particularly harmful and would lead to foreign retaliation.

Dislikes any excess profits tax but if necessary wants one which treats all firms fairly, is limited to those costs in excess of the long-term supply-demand equating level, permits retention of profits from large discoveries, allows for replacement costs and a reasonable rate of return and affects only domestic profits. Favors permitting a choice to reinvest "excessive" profits or have them taxed.

*Senator Gravel's excess profit proposal.*—Believes this proposal meets many of the above criteria but faults it on its disallowance of accelerated depreciation, its failure to allow deduction or capital loss for "qualified investments," thus limiting reinvestment incentive to a tax timing advantage, its inclusion of foreign profits, and its taxation of dividends from subsidiary energy companies that are themselves already subject to the tax. Approves concept of a profit allowance of 20 percent of net investment in energy properties, but should not be on a tax basis (with intangible drilling costs expensed out, greater of cost or percentage depletion deducted from leasehold investments and requiring an accelerated depreciation method of accounting). Suggests returning to a book base since a return on intangible drilling costs is fair even though tax deductible and allowing some capitalization of leased properties. Desires clarification of reinvestment policy to make it clear refineries are included, lengthening of permitted time period to a maximum of five years, permitting a carryover of excess "qualified investments," specifically treating affiliates filing a consolidated tax return as a consolidated group for purposes of this tax, and inclusion of a termination date for the tax.

*The McGovern-Aspin bill.*—Objects to use of a base period, 1969–72, to compute excess profits. Asserts that this discriminates against firms with low incomes during that period and ignores impact of changes in tax laws on taxable income during that period, such as reduction of oil depletion allowance. Recommends adjusting base period to cover extraordinary items, using a book base after taxes in determining profit allowance rather than tax base and dropping average net investment approach to permit all expenditures for energy-related projects as credits against an excess profits tax.

*Administration's "Emergency Windfall Profits Tax."*—Criticizes basing calculation of excess profits on a December 1 crude oil price with modifications over a three-year period as too arbitrary. Prefers a long-run supply price concept. Doubts it could be passed on to consumer. Urges inclusion of a reinvestment provision.

*Robert G. Dunlop, Chairman, Sun Oil Company*

*General.*—Emphasizes that the days of cheap foreign oil are over, and that foreign supplies even when reliable are going to be more and more expensive. Predicts U.S. will pay an additional \$10 billion for oil in 1974. Foresees international monetary problems as oil-producing

nations prove unable to absorb internally all the profits and seek the most attractive external possibilities. Believes essential for U.S. to step up domestic energy development, while not advocating 100 percent self-sufficiency, and that we should only rely on foreign sources for amounts which could be offset in an emergency by interim conservation measures. Laments fact that in 1973 U.S. was dependent on foreign sources for one-third of oil supply.

Forecasts some \$500 billion to \$1,350 billion will be needed from 1971 through 1985 for investment in domestic emergency industries with some \$250 billion to \$810 billion in oil and gas alone. Estimates internally generated investment from within industry has been declining, leading to increased borrowing and higher leverage. Considers present depreciation charges unrealistically low since replacement costs can only continue to increase and cheap fuel sources have already been exploited. Values foreign investment as essential to maintenance of diversified source of crude oil.

Advocates phased removal of price controls to stimulate new supplies. Cites low gas price policy as responsible for shortage not only of gas but coal and oil. Leasing of Federal energy lands must be accelerated. Hopes for better balance between environmental and energy objectives of government. Sees Federal financial support in the form of grants or guarantees necessary for expensive research and development in alternative energy fields.

*H. S. True, Jr., Partner, True Drilling Company, Casper, Wyoming*

Asserts that domestic oil and gas profitability has recovered only to the levels of the early 1950's, and expects domestic industry to resume expansion and halt 15-year decline in domestic exploration and development. Notes that decontrolled oil is now selling for more than \$10 a barrel. Cites rate of return on net assets of oil of just over 15 percent in 1973 as the best since the period 1948-56. Points out bulk of profits are from foreign income, not domestic, partly owing to benefits of dollar devaluation. However, fears reversal of foreign profitability because of increasing weakness of foreign currencies lately because of oil crisis. Taxes encouragement from marked increase in offshore leasing in 1973. Argues that talk of excess profits tax seems calculated to destroy the new economic optimism in energy industries.

**Emilio Collado, Executive Vice President, Exxon Corporation,  
Newark, New Jersey (February 6):**

*General*

Discusses the prospect of rising energy shortages and costs and uncertainties and necessity of international oil production. Indicates his company's U.S. taxes constitute an effective tax rate of 32 percent, the difference with the statutory rate reflecting the impact largely of the investment credit and the oil depletion allowance.

*Foreign tax credit*

Emphasizes that it is limited to the amount of U.S. taxes which would be due on foreign source income and has no impact on U.S. income taxes due on U.S. source income. Distinguishes between royalties paid to foreign governments as owners of property from which

minerals are extracted and income taxes on income resulting from such production. The former is a tax deduction; the latter is a tax credit for U.S. tax purposes. Indicates that the Administration's proposal will affect Exxon's foreign operations, particularly its shipping activities, since Exxon is one of the few oil companies to employ the *overall* accounting method of calculating the foreign tax credit.

*Foreign depletion*

Feels elimination of oil depletion allowance would have no measurable effect on Exxon's foreign operations.

*Excess profits tax*

States that exclusion of foreign profits from the emergency windfall profits tax is essential.

**National Association of Manufacturers, J. L. Greenlee, Vice Chairman of Taxation Committee (February 6):**

*Excess profits tax*

Recounts disastrous results of World War II and Korean War experience with this tax. Cites high administrative costs and volume of litigation. Claims that it rewards inefficiency. Warns against any excess profits tax passed in crisis atmosphere.

*Senator Gravel's bill.*—Commends its recognition of futility of further depleting basic source of net capital reinvestment in "qualified energy projects," but criticizes inclusion of depletion and capital recovery allowances in the base for applying tax.

*Administration's "Energy Windfall Profit Tax".*—Describes it as basically a graduated manufacturer's excise tax on domestic crude oil, with some attributes of an excess profits tax. Likes its feature of automatically adjusting tax brackets outwards over the next three years to make it apply only to amounts in excess of the expected long-run supply price of about \$7 per barrel. Prefers this approach to Title IV of S. 2806. Favors "plowback" alternative for disposing of revenues generated by tax, thereby avoiding creation of a new Federal agency to finance energy development.

*Consumption or excise tax*

Prefers it to an income tax approach, but doubts its effectiveness in today's situation.

*Depletion allowance*

Denies it is a loophole but rather corrective of a bias in the tax system against investment. Suggests its value is limited for those with significant net income. Recommends restoration of allowance to old 27½ percent level to encourage investment.

*Foreign tax credit and foreign depletion allowance*

Takes no specific position but cautions against discouraging investment by U.S. capital in foreign energy and mineral sources.

**Common Cause, Jack Conway, President (February 6):**

*General*

Repeats call for tax reform and elimination of "loopholes" with resulting increased revenue being applied to relieve low wage earners

of burden of regressive social security payroll tax. Argues that confidence of public in equitability of tax system is shaken by low taxes paid by oil companies despite high earnings. Contends that oil companies' profits are larger than those of other major industries. Projects \$24 billion of additional profits in 1974 for oil industry. Cites one estimate that in 1972 the leading oil companies had an overall tax rate of 6 percent.

*Excess profits tax*

Describes it as administratively burdensome. Prefers permanent measures to raise oil companies' taxes together with a price rollback approach.

*Percentage depletion allowance*

Calls for repeal of percentage depletion allowance domestically as well as overseas. Cites a 1969 Treasury study estimating revenue loss of this allowance annually at \$1.4 billion, resulting in only \$150 million of increased oil reserves. Estimates revenue loss could reach \$3 billion this year.

*Intangible drilling costs*

Contends that this discriminates against other industries which must capitalize such expenses and amortize them over the life of the structure in question.

*Foreign tax credit*

Estimates backlog of five years in carryover credits, even if credit were to be repealed tomorrow. Charges royalties are treated as income tax by IRS as result of secret ruling supported by the State Department. Wants open review of this ruling instead of outright repeal of foreign tax credit.

**Hon. Edward I. Koch, Member of Congress, State of New York  
(February 6):**

*General*

Endorses some form of windfall profits tax. Concentrates on how the additional revenues generated will be used by the government. Advocates direction of resulting revenues into emergency mass transportation operating and capital costs. Sees conservation of scarce energy as a result. Endorses Administration proposal to repeal oil depletion allowance for foreign oil production, but prefers complete abolition of percentage depletion.

**John W. Partridge, Chairman, Columbia Gas System, Inc., Wilmington, Delaware (February 6):**

*General*

Cites statistics showing natural gas industry meets 32 percent of nation's energy requirements, and that supply does not meet demand. Foresees heavy reliance on external financing, which requires a high level of earnings. Traces lack of investors' interest in utility company stock to uncertainty over future earnings. Insists on modernization of rate-making practices by regulatory agencies. Calls for amending

the Natural Gas Act to require rate base of a natural gas company to be present value as opposed to original cost of facilities, and further amendment of the Natural Gas Act and tax laws to permit depreciation accrual rates applied to present value for book rate and tax purposes. Urges de-regulation of wellhead price for new gas and increased Federal support for research and development. Opposes any lessening of present tax incentives.

**Joe E. Kilgore, President, Cambridge Royalty Company, Houston, Texas (February 6):**

*Windfall profits*

Cites estimates that indicate petroleum industries' accelerated expansion must rely primarily on net income in future. Doubts existence of a windfall element, or an amount by which the free market price exceeds what is necessary to bring supply and demand into balance over a two-year period. Supports a windfall tax only if result is to divert more funds into exploration activities, rather than to tax revenues. Denounces the refund procedures proposed as cumbersome and resulting in a diversion of needed working capital into a refund backlog. Prefers S. 2799's provisions in this respect. Feels particularly hard hit by the accounting requirements would be the small independent and royalty owners because of the numerous fractional interests in exploratory activities. Considers the McGovern bill (S. 2799), by not assessing the windfall profits tax against royalty owners, as preferable in this respect to the Administration's approach, which does. Describes royalty investments as providing a new source of working capital to operating exploration companies, while limiting investor's risk to the cost of the royalty.

**Gerard M. Brannon, Research Professor, Georgetown University (February 6):**

*Oil prices*

Considers the OPEC decision to treble price of oil in a year to be the single most important factor in present energy problem, not the Arab oil embargo. Sees higher prices for oil as promising future restoration of equilibrium between supply and demand through substitution of cheaper energy sources by consumers and development of more expensive energy alternatives by energy companies. Postulates our basic energy problem as an adjustment to the higher prices of imports. Concludes higher prices are a combination of good news and bad news: the good news is an increase in supply will be accompanied by fall-off in demand; the bad news is likely higher costs to consumers and higher profits for oil companies. Describes price control as no solution to problem and at best no more than a temporary delaying action in this kind of market.

*Oil depletion allowance and intangible drilling costs*

Concedes some relevancy prior to 1973 of policies permitting oil companies to bear a lower tax burden than other business (a tax subsidy) to the overall aim of encouraging consumption of U.S.-produced oil as opposed to the less expensive foreign supplies, while questioning wisdom of such a policy. Today, is convinced that oil depletion allow-

ance makes no sense and is inefficient, since most of the cost associated with the development of new energy sources will be related to the manufacturing processes and will not benefit from the depletion allowance. Depicts continuation of the depletion allowance as encouragement of continued reduction of supply of scarce resources. Urges repeal of depletion allowance and intangible drilling expense deduction for successful oil wells. Dry holes should continue to be eligible for immediate writeoffs, which should meet the aims of those interested in encouraging more oil exploration.

*Excess or windfall profits tax*

Considers the Administration's proposal highly inefficient since it is a temporary tax which goes down in rate over its lifetime, thereby encouraging postponement of production, contrary to the stated Administration objectives. With a reinvestment return feature, questions whether it is a tax at all. Projects a Treasury gain of \$10 billion from his proposals and just about doubled after-tax profits from crude oil. Claims would obviate need for special exploratory drilling credits, yet another layer of incentives.

*Tax relief and price rollback proposals*

Doubts efficacy of price rollback. Feels same objective could be accomplished by a refundable energy tax credit financed from Treasury revenue gains referred to above, with special credit provisions for those not filing tax returns through the social security or welfare system.

*Foreign tax credit*

Explores treating OPEC taxes as excise taxes and not income taxes eligible for foreign tax credit, since current distinction between excise and income taxes in OPEC countries is totally arbitrary and, in any event, they are passed on to the consumer. Suggests that Treasury could make an arbitrary determination as to what percentage of OPEC taxes could be considered income taxes and how much excise tax. However, cautions against moving unilaterally in this direction because of the advantages which would be gained by foreign competition in the absence of similar action by their governments. Instead, urges repeal of *overall* option for computing foreign tax credit, since it would yield additional revenues to U.S. Treasury, without disturbing the foreign competitive situation.

**American Federation of Labor-Congress of Industrial Organizations; Andrew J. Biemiller, Director, Department of Legislation (February 7):**

*General*

Claims that the energy crisis portends higher prices, fewer jobs, and paycheck cuts. Maintains that phantom cost write-offs grossly distort and understate taxable income of oil companies. Cites statistics as evidence that profits as a percent of net worth of the five largest U.S.-based, multinational companies in 1972 exceeded the national average for U.S. manufacturing corporations as a group, while oil corporations' net profits as a percent of sales was more than double the margins of manufacturing corporations.

*Foreign tax provisions*

*Operation through branches and subsidiaries.*—Suggests that operations by oil corporations through branches, subsidiaries, and joint ventures cause profits and taxes to disappear through clever accounting.

*Foreign depletion allowance.*—Recommends immediate elimination of depletion allowances on foreign-produced oil.

*Foreign tax credit.*—Proposes that foreign taxes should be deductible, not a credit.

*Deferral of taxes on foreign profits.*—Advocates current taxation of profits of foreign subsidiaries of U.S. corporations.

*Restriction on uses of foreign losses.*—Suggests that foreign losses should be written off only against the same "operations" giving rise to the losses.

*Depletion and intangible drilling costs (domestic)*

Supports phasing out of depletion and intangible drilling costs deductions over a period of not more than five years in order to blunt any incentive of oil companies to stockpile oil, such as the incentive that might arise from the Administration's windfall profits tax proposal.

*Windfall profits tax proposal*

Objects to Administration's windfall profits tax proposal because:

- (1) The President's proposed Emergency Windfall Profits Tax is only an excise tax on barrels of oil, which will be passed on to the consumer;
- (2) Oil companies would, as the proposed tax phases out, hold back on production in order to obtain extra costs from consumers that would otherwise go to U.S. Treasury;
- (3) The proposed "effective" tax rates would be far less than the 85 percent envisioned by the President;
- (4) The tax would be deductible for determining income tax liabilities; and
- (5) The Administration proposal is actually an invitation to raise all oil prices to \$7 per barrel.

*Excess profits tax*

Recommends enactment of an excess profits tax at a rate of at least 30 percent, with base period to be 85 percent of average profit levels from 1969 to 1972, with one year allowed to be dropped. Proposes also a credit based on an appropriate return on investment to prevent hardship cases and to protect smaller companies, and a maximum effective tax rate to include the excess profits tax.

*National energy self-sufficiency*

Urges national energy self-sufficiency with congressional leadership to supplant cosmetic Administration proposals.

**Hon. Donald M. Fraser, Member of Congress, State of Minnesota  
(February 7):**

*General*

Asserts that the energy problem can be dealt with by elimination of special tax privileges or by a price rollback through repeal of the exemption from price controls on oil from wells producing ten barrels

a day or less. Affirms that the elimination of tax privileges of oil companies would remove the possibility of windfall profits, and that the double payment of the American consumer—once at the pump and again in Federal income tax—would thereby be ended.

#### *Profits and prices*

Charges that the oil industry has earned windfall profits, with the largest increase coming from foreign operations. Predicts even higher prices will give the oil industry a net increase of \$16 billion in cash flow in the coming year. Indicates the greatest price increase since the beginning of 1973 has been in the world market price of crude oil and in prices of deregulated domestic crude oil, while the controlled price of domestic crude oil has increased at a slower pace.

Points out that prices have been rising while purchasing power has declined during the past year, with energy prices leading the rest. Maintains that unusual oil industry profits are the result of circumstances that nullify the normal checks and balances of a free market.

#### *Windfall profits tax proposal*

Quotes economists to effect that an excess or windfall profits tax is economically unsound and administratively unworkable. Proposes eliminating special oil company tax advantages as an alternative.

#### *Depletion allowance*

Urges that percentage depletion be eliminated and be allowed only for normal cost depletion since percentage depletion has failed its purpose—to increase domestic resources. Calculates that revenue loss caused by percentage depletion will increase substantially when Alaskan oil comes on tap and domestic prices rise to the world level.

#### *Intangible drilling costs*

Maintains that repeal of the preferential rule of permitting oil companies to deduct the costs of all goods and services, not only costs of capital equipment, would bring an initial revenue gain of \$500 million yearly, declining to about \$50 million per year thereafter.

#### *Foreign tax credit*

Argues that the U.S. foreign tax credit has encouraged foreign operations, including the construction of refineries abroad, in preference to domestic operations. Suggests that royalties paid to foreign countries be no longer considered foreign income tax payments, and that the criterion of whether a payment is a tax or a royalty should be its correspondence to corporate income taxes paid by other businesses in that country. Proposes that 10 percent of foreign taxable income be treated as a deduction, rather than as a credit, thus approximating the deductible State income taxes paid by domestic corporations. Questions whether treating foreign taxes as a deduction in computing U.S. taxes constitutes double taxation in view of surge in profits of foreign operations.

#### *Capital investment needs*

Asserts that capital investment needs of oil companies are not a justification for special tax privileges since the oil companies should compete with other industries by borrowing for capital on a free market. Suggests that much of the oil industry's high reinvestment percentage may go to activities unrelated to energy.

**Laurence I. Moss, President, Sierra Club (February 7):***General*

Argues that profits in excess of those required to encourage adequate new exploration and development can be correctly classified as windfalls, when generated by the price increase of foreign crude oil.

*Windfall profits tax proposal*

Opposes the Administration's tax proposals in general. States that the windfall profits tax proposed by the Administration is actually a graduated *ad valorem* excise tax. Believes that neither the proposed windfall tax nor an excess profits tax should now be imposed.

*Taxation of the oil industry*

Notes that preferential tax advantages allow the oil industry to pay an effective tax rate of 8.7 percent, rather than the statutory 48 percent. Charges that high external costs of energy production indicates that those industries should pay comparatively more, not less, than other industries. Contends that all subsidies work to the competitive disadvantage of independent companies since vertically integrated oil companies can shift profits to the tax-sheltered crude oil production stage. Argues also that oil indirect subsidies through tax advantages discourage development of energy sources other than fossil fuels, although those alternative sources are less destructive ecologically.

Recommends that excessive profits be combated first by eliminating the percentage depletion allowance, the expensing of so-called intangible costs, and the practice of allowing tax credits for what are actually royalties paid to producer country governments, before a windfall profits proposal is considered. Explains that special tax incentives are no longer necessary as high prices are incentive enough.

*Foreign tax credit*

Feels that continuing the foreign tax credit for crude oil production royalties is inappropriate since it is actually foreign aid and militates against American energy self-sufficiency. Adds that if OPEC countries can disguise any excise tax or royalty tax as an income tax, as maintained by Secretary of the Treasury Shultz, then the foreign tax credit should be entirely eliminated.

*Foreign depletion allowance*

Maintains that the Administration's proposed changes in the foreign tax credit are inadequate and that, resultingly, cancellation of the foreign depletion allowance would also be of little consequence.

*Excess profits tax as compared to the elimination of the tax preferences*

Maintains that the revenue increase caused by his recommended elimination of oil tax preferences would have the same effect as an excess profits tax, but with none of the problems, such as the administrative burden.

*Indirect tax subsidies compared with direct subsidies*

States that if oil company subsidies are needed, tax subsidies should be replaced by direct subsidies, which are more efficient, less affected

by irrelevant external conditions, and less likely to outlive their purposes. Suggests, however, that eliminating the subsidies would tend to require the consumer to pay the full social costs of producing energy and would conserve energy.

Cautions against allowing any new tax preferences to the oil industry to be enacted.

**John C. Davidson, President, the Tax Council (February 7):**

*General*

Indicates that the corporation is an economic agent through which individual needs are served more efficiently than through any other means known to man. Stresses that there is no such thing as too much capital or profit. Asserts that profits provide capital and can achieve American petroleum self-sufficiency.

*Excess profits tax*

Opposes any excess profits tax affecting oil operations.

*Oil tax policy*

Urges that future tax policy avoid penalizing levies and recognize that profits are not in conflict with the interest of the public or the consumer.

*Oil prices*

Warns that although oil self-sufficiency is possible on a national basis, the price of oil everywhere depends upon world supply. Advocates encouraging American production abroad.

**Allan C. King and J. N. Warren, independent oil and natural gas producers, accompanied by John E. Chapoton, Counsel (February 7):**

*Windfall profits tax*

Oppose proposal to impose windfall profits tax on oil production income because substantial economic incentives are needed to attract the risk capital to achieve necessary exploration and development. Recommend that small producers (those producing less than 10,000 barrels a day) be exempt from any such tax. Suggest, in the alternative, that small producers should receive a plowback credit, which would eliminate the excess profits tax to the extent that "excess profits" were reinvested in exploration and development.

**Howard Rodgers, President, Sante Fe Natural Resources, Inc. (February 7):**

*Windfall profits tax*

Objects to the proposed windfall profits tax on the ground that production revenues could be better spent in exploring for oil and gas rather than paying them over to the Federal Government. Urges a plowback credit for any amounts used for qualified investments for the exploration of oil, gas, and other natural resources. Believes the credit should be available for revenues earmarked by the producer

for exploration expenses and actually invested by him for those purposes over a reasonable period of time, such as 3 years.

**Ronald S. Tucker, Kingery Drilling Company, Ardmore, Oklahoma (February 7):**

*General*

Urges rejection of proposals to impose new taxes on the oil and gas industry, such as the windfall profits tax, since increased taxes will discourage investment in this field. Argues instead for an increase in tax incentives such as the percentage depletion allowance and the intangible drilling deduction and for the elimination of the minimum tax as it applies to the oil and gas industry.

Suggests, also, that the following steps can help to solve the energy crisis and other economic problems: eliminate all price controls, mandatory allocations, and other Government regulations and restrictions; eliminate any special considerations given to large oil companies or any other company which gives them competitive advantages; offer monetary reward for the invention and demonstration of a pollution-free engine which greatly increase efficiency; and offer a reward or prize for any other invention which reduces pollution and creates new sources of energy or conserves existing sources.

## B. WRITTEN STATEMENTS

**Hon. Gaylord Nelson, United States Senator, Wisconsin:**

*General*

Asserts that the energy shortage has meant a bonanza of profits to oil companies while increasing prices to most Americans. Feels that the current energy price situation compels Congress to take a new look at the various special tax provisions accorded to the petroleum industry, including percentage depletion, expensing of intangible drilling costs, and foreign tax credits for oil royalties, to determine whether they continue to be justifiable.

*Percentage depletion*

Maintains that if Congress does not change percentage depletion the public is going to be outraged to discover that oil companies will have received huge increased tax deductions because of increased prices. Since depletion is calculated at 22 percent of gross income from oil, points out that increases in price automatically result in higher tax deductions. Cites estimates that the revenue loss from oil and gas depletion on domestic oil alone will rise from \$1.5 billion in 1972 to \$2.2 billion this year and \$2.45 billion in the next year. Contends that the depletion allowance is an extraordinary tax subsidy because it permits a taxpayer to recover dollar amounts exceeding on the average 16 times the original investment while the taxpayer has already recovered most of his capital investment in the first year of production because of expensing intangible drilling costs.

Indicates that there are studies questioning the effectiveness of the depletion tax subsidy. Cites the Senate Interior Committee's conclusion ("Analysis of the Federal Tax Treatment of Oil and Gas and some Policy Alternatives," Report No. 93-29, January 1974) that

“present tax provisions such as percentage depletion, expensing of intangibles and expensing of dry holes have a relatively small effect on investment in oil and gas production.” Points out that the Federal Energy Office Administrator, William Simon, has stated that a change in percentage depletion should have no effect on the rate of oil production.

Argues that, as presently written, percentage depletion is an incentive to pump from existing wells rather than an incentive to explore for new oil sources. Further, notes that depletion can be claimed by oil royalty owners even though they are passive investors and not the risk-takers; and that depletion for foreign wells does not encourage domestic exploration. Maintains that because of the net income limitation, depletion is far more valuable to productive wells rather than to marginal wells. Concludes that depletion is a wasteful and expensive tax subsidy that should be repealed, and especially so since recent oil price increases have given oil producers far more benefits than depletion and give more than sufficient economic incentive.

#### *Intangible drilling and development costs*

Explains that by most accounting criteria, exploration and development costs for productive wells are an investment in capital and would be for other industries subject to a depreciation allowance over the useful life, rather than immediately expensed. Doubts that the rationale for this provision is applicable to foreign exploration and development.

#### *Foreign tax credit*

Considers the foreign tax credit to be a basically sound device to prevent double taxation. Asserts that there is some question, however, in the case of oil producing countries as to whether the payments are “taxes” or royalties that should not be creditable but deductible. Indicates that because of such amounts of excess tax credits accumulated by oil companies, most would be willing to deduct them immediately as royalties. Suggests adoption of the approach recommended in the President’s 1963 tax reform proposal to limit credits for foreign taxes to the source of income and not allow the credits to reduce U.S. taxes on other sources of foreign income. Notes that this proposal is similar to that reported by the Ways and Means Committee in the 1969 reform legislation.

#### *Western Hemisphere Trade Corporation deduction*

Feels that the 14-percentage point tax rate reduction available for WHTCs benefits primarily minerals industries, and that it is highly questionable.

#### *Tax reduction for individuals*

Contends that the number one problem facing most Americans today is unprecedented peacetime inflation. Points out that social security taxes have also continued to rise.

Suggests that any revenue raised by reforming oil industry taxes should be used to provide temporary tax relief to the individual taxpayer in the form of a tax credit so that low-income taxpayers would receive most of the benefit. Maintains that this would help offset some inflation while also helping to cushion the expected economic downturn this year.

**Hon. William F. Walsh, Member of Congress, State of New York:**

*Excess profits tax*

Testifies on behalf of his bill, H.R. 11978, which would establish an excess profits tax on the income of corporations attributable to the production or distribution of energy resources. Challenges critics of any excess profits tax proposal on the grounds that it will reduce needed investment funds of the oil industry, countering there is nothing that can be done about the present shortage with reinvestment of windfall profits. Further doubts whether there would be any real contribution toward solving the energy problem in the long run from reinvestment of windfall profits today in view of the limited supply of oil in the world. Views the chief criticism of the concept of an excess profits tax as the encouragement it would give corporate spending for advertising, pension fund contributions, maintenance and repairs, corporate philanthropy and expense accounts, since these deductible expenses would cost the company less to incur at a higher tax rate where the net return on the dollar is much lower than would be the case now when the return is 37 percent higher (as under H.R. 11978). However, quotes Professor George Lent, Visiting Professor of Business Economics at Dartmouth College, writing in the *National Tax Journal* of September 1958, to the effect that analysis of corporate income tax returns during the Korean War excess profits tax experience shows no clear relationship between the imposition of an excess profits tax and increased business expenditures. Commends the study to the committee's attention.

Outlines his proposal as a tax on the excess profits of any corporation engaged in the production, transportation, distribution or retailing of petroleum or any petroleum product, natural gas, electrical power, or coal, if such item is normally used or potentially usable as a fuel. Such a tax would be levied at the rate of 37 percent and is in addition to regular corporate income taxes. Encourages research and development by allowing the corporations to deduct 25 percent of the excess profits for this purpose before the tax is calculated. Employs a base period of 1969-1972 in determining the fair profit level. Provides several formulas in the bill which in effect allow a company to eliminate 12 of those months in arriving at a 36-month base period. Supports a provision that the tax will remain in effect until Congress by concurrent resolution states the energy emergency has ended.

*Windfall profits tax proposal*

Faults the Administration's windfall profits tax proposal as encouraging withholding of products as long as possible in order to reap greater profits when the tax expires. Reasons this may well have the undesired result of further aggravating the critical shortage of energy. Predicts that the tax may discourage production from higher cost wells since it in effect operates as an excise tax imposed on the price of the product rather than on the profit and would hasten the time when marginal revenue would equal marginal cost on a higher-cost stripper well or oil shale operation. It would thus tend to offset the encouragement given by current higher prices to further developing the high-cost sources of energy during a critical shortage period.

**Hon. H. John Heinz, Member of Congress, State of Pennsylvania:***General*

Doubts that we can approach the goal of complete energy self-sufficiency. Feels that the energy crisis calls for time-consuming and costly development of new sources of energy, as well as for restraint and new approaches to living in the U.S. In addition, calls for a long-range tax policy which scrutinizes every preference in the Code to determine its relevance to the welfare of all the public. Short-run tax policy must not impede the domestic supply of crude oil and exploration through punitive actions. However, the oil industry, whose foreign corporations reported an average earnings rise of 59 percent and whose effective tax rate is 8.3 percent, does need some restraining and redirection at this time of shortages and inflation. Recommends also the removal of wage and price controls.

*Excess profits tax*

Proposes a temporary, two-year excess profits tax on the oil industry, but patterned after the excess profits tax of the Korean War rather than the Administration's windfall profits tax proposal. Indicates that the purpose of the tax should not be just increasing public revenues but rather to rechannel the extra oil profits into increasing domestic investment in exploration and refining as a means of increasing fuel supplies and as a way of reducing high prices.

Suggests the following specifications for the excess profits tax on oil:

- (1) tax rate of 85 percent of profits in excess of the base period profits;
- (2) allow a base period to be one of the 3 tax years, 1969-1973;
- (3) exempt the first \$100,000 of profit to protect the smaller companies;
- (4) permit an additional deduction for financing construction of new refineries;
- (5) new companies could use measures of similar companies during the base period; and
- (6) provide penalties to prevent reincorporation of companies to avoid the tax.

**Hon. Robert L. Leggett, Member of Congress, State of California:***General*

Stresses that the objectives of an energy tax policy should be to eliminate "excessive" industry profits but allow adequate profits for expanded production, insuring that any tax benefits go only for increased domestic production and attainment of national energy independence.

Makes the following nontax recommendations:

- (1) require full disclosure of energy industry data;
- (2) establish a Federal oil and gas corporation to develop fuel resources in public lands and provide a yardstick for gauging industry activities and economics;

(3) reject any effort to use the unworkable Renegotiation Board appeal procedures to roll back profits;

(4) institute petroleum price controls, price rollbacks and price averaging as an interim measure along the lines proposed in S. 2589;

(5) place the oil industry under coordinated and comprehensive regulation under a beefed-up FPC or a new Federal Energy Commission; and

(6) give priority attention to energy conservation measures.

*Administration's windfall profits tax*

Urges rejection of the Administration's so-called excess profits tax proposal. Considers it to be an excise tax on crude oil, which can be passed on to the consumer. Second, feels that the proposed tax is unconscionably low. Also asserts that it appears that the proposal is designed to permit prices to rise to \$7.00 a barrel without any evidence that this degree of increase is necessary.

*Foreign tax provisions*

Recommends eliminating the tax benefits granted to foreign operations of oil companies, which have deprived the U.S. Treasury of enormous amounts of tax revenues and have encouraged foreign expansion at the expense of domestic production.

Urges repeal of the foreign tax credit provisions which permits U.S. companies to deduct taxes and royalties on a dollar-for-dollar basis, and suggests replacing it with a deduction. Second, proposes repeal of percentage depletion on overseas operations; and third, recommends removal of the intangible drilling cost expensing provision for foreign operations. Considers the Administration proposals to be inadequate.

*Energy conservation measures*

Maintains that rationing is preferable to increased taxation as a measure to reduce fuel consumption. However, if a tax approach is used, suggests the following:

(1) a motor fuel tax is preferable to a transfer or vehicle ownership tax since the latter type tax provides no incentive to reduce miles traveled or to improve efficiency;

(2) a Government-tested, miles-per-gallon type tax is preferable to a weight tax since the latter offers no incentive to improve vehicle efficiency or to use smaller engines;

(3) a weight tax is preferable to a horsepower tax, since the latter is more indirectly related to fuel consumption; and

(4) a horsepower tax is preferable to a displacement tax, since the latter's relationship to fuel consumption is so indirect as to be virtually useless.

**Thomas F. Field, Executive Director, Taxation With Representation:**

*General*

Believes that price controls or price rollbacks are the wrong way to deal with the problem, as keeping a lid on prices will encourage consumption and discourage production.

*Windfall profits tax proposal*

Considers the attempt to control price increases through a windfall profits tax as objectionable as direct price controls or rollbacks, as the proposal would interfere with the free market price mechanism by choking off production that would otherwise have occurred. Cites, as an example, that the Administration's proposal would put a tax of 25 cents on oil pumped from a stripper well that cost \$5.90 a barrel and sold at a price of \$6.00 a barrel. Notes that this would be a tax of 250 percent on the expected 10 cents profit, thus, the well would be taken out of production.

Contends that the windfall profits tax will discourage current production because the tax on future production will be lower than the current tax. Argues that the proposed tax will also add new complexities to the Code and encourage litigation. Maintains that the proposal would do nothing to increase the fairness of the Code nor to reduce the oil industry's reliance on tax subsidies, as would the proposals to directly remove such tax subsidies.

*Excess profits tax*

Considers proposals for an "excess" profits tax to be even less desirable than the proposed windfall tax because of the increased complexities and definitional and administrative problems in determining what are "normal" profits. Cites experience with the Korean Excess Profits tax and the resulting administrative problems, inconsistent rules and litigation that were never fully resolved by Supreme Court review due to the temporary nature of the tax.

*"Plowback" proposals*

Maintains that it would be unwise to grant a deduction or credit for plowing back profits into related investments because current prices already give adequate incentive to explore, drill wells and build refineries. Asserts that providing tax subsidies to do what the price structure already encourages a company to do would be a costly waste of revenues and result in little tax actually paid. Also, feels that defining qualified investments would be an extremely difficult legal and engineering task, which is best left up to the companies. Further, claims that administering such a statute would be horrendous.

*Depletion and intangible drilling costs*

Contends that percentage depletion and deduction for intangible drilling costs should be repealed because these do not significantly increase petroleum reserves, will be extremely costly at new oil and gas price levels, and cause the income tax system to be significantly less equitable. Believes that high prices for oil and gas will provide sufficient incentives and sufficient cash flows for the oil and gas industry and that special tax incentives are not needed.

Estimates that repeal of the intangible drilling deduction alone would gain \$800 million revenue and the repeal of the percentage depletion allowance would gain about \$2.6 billion in fiscal 1975; or if repealed simultaneously, the revenue gain together would be approximately \$2.9 billion due to some degree of overlapping of these deduction provisions.

*Foreign tax credit*

Argues that the overall foreign tax credit limitation should be repealed, for a revenue gain of \$500 million. Believes that the Internal Revenue Service could examine payments to foreign governments and make a more accurate determination of which of these payments are royalties and allow the royalties only as a deduction not as a credit.

*Individual taxpayer relief*

Recommends that the revenue gain derived from repeal of the special tax subsidies for the petroleum industry be used to provide tax relief to low-income consumers through either social security or income tax credits.

**Robert M. Brandon, Director, Tax Reform Research Group:***General*

Maintains that Congress must go beyond simply considering an excess profits tax on oil to a more comprehensive reform in the taxation of oil and gas. Contends that tax subsidies are inefficient means for encouraging increased exploration and resources, and that price increases are the most direct and efficient way to increase energy supplies. Claims that greater domestic supply will ultimately provide competition with foreign oil, acting to drive down artificially high world oil prices. Feels that long-term prices of about \$7.00 per barrel will make it economically feasible to produce oil through coal gasification or liquefaction and from shale and tar sands, as well as secondary and tertiary recovery of oil from existing wells. Asserts, also, that such a higher price for oil will have beneficial effects on demand, as consumers will tend to make more rationale choices about using and conserving energy if they have to pay the full social cost of production.

*Windfall oil profits*

Points out that oil that was profitably produced when the price was \$3.50 per barrel is now being sold for \$6.50, which has resulted in a \$12 billion windfall transfer from consumers to oil producers. Indicates that present windfall tax proposals are the wrong approach, as they are unworkable, easily evaded, and a disincentive to increased energy production. Maintains that the best way to prevent continued windfall profits is to tax the oil industry like other profitable industries, and eliminate the special tax subsidies no longer justified under the present and future price structure.

*Administration's "Emergency Windfall Profits Tax.*—Argues that this windfall profits tax proposal is not a tax on windfall profits at all, but rather an excise tax on crude oil as the price rises above \$4.75 a barrel. Notes that the proposal would only tax 7½ cents of the additional dollar for oil now selling at \$5.25, netting the oil companies an extra profit of 92½ cents above the profit they were already making when the price was \$4.25. At a price of \$6.75, the tax would only take 67½ cents, and the 85-percent rate would not take effect until the price of oil reaches \$7.25. Furthermore, the proposed tax would be phased out over five years so that in three years no extra tax would be paid on oil that sells for \$7.00 a barrel. Contends that this would encourage oil producers to delay producing oil, which is not the way to solve the oil shortage.

Asserts that the proposal also does not take into account the rising value of the depletion allowance as prices increase, which would tend to offset the amount of increased tax.

*Other excess profits tax proposals.*—Believes that traditional excess profits taxes are not the answer either, as such a tax would not work because of difficulties in defining “normal profits,” “excessive profits,” the base period, and accounting for varying profit margins and capital requirements of oil majors and independent producers. Even if such a tax would work, considers it absurd to encourage excess profits through tax subsidies and then trying to tax those profits away. Moreover, an excess profits tax would encourage wasteful spending and shifting of excess profits from crude operations to shipping and refining operations of the major integrated companies. Indicates that the revenue gain from any of the proposed excess profits taxes or wind-fall profits tax would be insignificant in comparison to the estimated \$24 billion in additional oil company revenues over 1974 and 1975.

*“Plowback” proposals.*—Asserts that plowback provisions are merely an extra bribe to the oil companies for doing something they would do anyway because of the existing incentive of higher oil prices.

#### *Percentage depletion*

Notes that depletion was originally designed to allow recovery of the cost of the discovery over the life of the well, as is the case for other business depreciation. Contends that percentage depletion is an arbitrary figure unrelated to any economic needs, and results in allowing a producer to recover the value of the oil an average of 16 times. Considers percentage depletion to be inefficient because its benefits also go to nonproductive interests receiving royalties and to foreign operators. Asserts that the depletion that does go to domestic producers is an incentive for companies to pump oil from existing wells and to drill in existing reserves rather than to explore for new oil.

Indicates that Treasury has testified that lowering the depletion allowance would have little effect on exploratory drilling. Further, claims that depletion discourages production of other sources of energy, such as coal gasification since the producer of crude oil gets the full benefits of the depletion allowance based on the price of the oil while oil made from coal gets only the benefit of depletion on the original value of the coal.

#### *Intangible drilling costs*

Maintains that the expensing of intangible drilling costs provides *no* incentive to drill exploratory wells, as this subsidy benefits only producing wells because the costs of dry holes are deductible anyway. Asserts that the deduction, like depletion, is an incentive to overdrill in known reserves, and thus is not compensation for risk taking. Moreover, recent price increases have more than offset any potential loss in incentive if this deduction were repealed.

#### *Foreign tax credit*

*Oil royalty payments.*—Considers much of the “income tax” paid to oil producing countries to be a royalty payment. Notes that royalties are deductible when paid to a U.S. oil royalty owner rather than creditable dollar-for-dollar against U.S. tax. Claims that the tax paid to Arab countries is merely a flat excise tax or royalty based on 55 per-

cent of artificial posted prices, and is not related to income or profit. Indicates that secret IRS rulings have treated these royalties as taxes since the 1950's.

Urges reconsideration of the foreign tax credit mechanism and a limit on its use to bona fide foreign income taxes. This would limit U.S. tax subsidies for the production of foreign oil and would also encourage the oil companies to resist higher royalties if such payments were no longer to be offset dollar-for-dollar against U.S. taxes. Notes that such a change would result in little immediate revenue gain because of huge amount of accumulated excess tax credits.

*Overall limitation.*—Suggests also that the overall limitation provision be repealed because it allows some companies to use excess credits in other foreign countries to offset U.S. tax there on other operations such as shipping and refining. Estimates that repeal would gain \$800 million in revenue a year.

#### *Tax relief to individuals*

Contends that price rollbacks or price controls are not the answer to giving the consumer relief because such measures would only discourage energy production and increase dependence on foreign oil, which will tend to cause further price increases. Maintains that the best way to grant relief to individuals is to tax oil companies under a regular profits tax—not the “windfall” tax—and use the revenues to grant a refundable tax credit to individuals. Indicates that a per capita tax credit of \$30 would cost about \$6.6 billion, or \$2.2 billion less than the \$8.8 billion estimated gain from removing the tax subsidies to oil companies. This surplus could then be used to fund necessary projects such as energy research and mass transit.

Alternatively, suggests consideration of Senator Mondale's proposal to allow an option of a \$200 credit instead of the personal exemption, which would involve a similar cost (\$6.5 billion) as the above proposal. Concludes that, whatever approach is adopted, Congress must ensure that relief is granted to those most affected by higher fuel prices—low- and middle-income families and those on fixed incomes.

### **National Foreign Trade Council, Inc.:**

#### *Foreign tax credit*

Opposes any changes in the present tax system which would reduce credits now allowable to U.S. taxpayers for income taxes imposed by foreign countries on foreign-earned income. Challenges the assumption that by making the United States tax burden heavier on foreign operations that there would be greater investment in United States oil exploration, leading to greater self-sufficiency in energy resources. Feels that in the short term the United States will have to rely substantially on imported oil to satisfy its present shortages of energy and fuel; but there are also long-term requirements for the import of oil unrelated to energy and fuel requirements stemming from the increasing worldwide need for oil and gas as the vital raw materials for a broad range of products such as plastics, synthetic rubber, agricultural fertilizers, chemicals, etc.

Emphasizes the need to continue maximizing development of both domestic and foreign sources of oil and gas and the further need to diversify foreign sources for both these products. Further, urges the

committee to consider the potential impact on the U.S. economy and that of the world if other countries cannot obtain adequate supplies of oil and gas. Seriously questions whether foreign gas and oil companies would be able to fill the production void that would result from the withdrawal of United States companies from overseas operations.

Argues that the foreign tax credit is neutral, neither discouraging nor encouraging investment overseas as opposed to at home. Desires to keep the present flexibility permitted under the present foreign tax credit whereby companies may choose between the per-country or overall approach. Submits that current proposals to prevent United States oil companies from computing foreign tax credit under either the overall or per-country limitation in the same way allowed other U.S. companies is based on the erroneous assumption that foreign tax levels in excess of U.S. tax levels are automatically a matter of abuse, when applied to foreign-source production by an entity which both owns the oil and imposes the tax. Fears that such an approach would tend to fragmentize the present foreign tax credit system which deliberately refrains from differentiating between industries.

*Excess profits tax proposals*

Expresses concern with the possibility of applying any excess profits tax to foreign activities or operations of American corporations. Fears such proposals would subject U.S. companies to a competitive disadvantage abroad. Maintains that as far as petroleum produced and marketed abroad by U.S. subsidiaries is concerned, the major objective of the various excess profits tax proposals has no applicability since it would not be recouping a portion of the higher prices charged the American consumer.

**Fred L. Hartley, President, Union Oil Co. of California, Los Angeles, California:**

*Windfall profits tax*

Expresses opposition to the Administration's "windfall" profits tax, as well as to other proposals for "excess" profits taxes on the oil industry.

Contends that current oil industry profits appear large because of unsatisfactory earnings in prior years. Urges Congress to view these profits in perspective and not be stampeded into ill-advised repressive action. Maintains that large amounts of capital will need to be reinvested to develop needed domestic supplies, and that most will have to come from earnings which have already been reinvested at a high rate.

Considers the windfall profits tax to be actually an excise tax on crude oil, as it does not differentiate between low cost primary production and high cost marginal production. Further, feels that the tax would have no effect on reducing consumer prices, with the oil companies getting the blame for the Government's action. Asserts that the windfall tax proposal would certainly affect the thinking of the OPEC countries, since they would not be likely to roll back their crude prices unless the U.S. does so. Argues that the windfall profits tax proposal and other excess profits tax proposals are discriminatory as they single out the petroleum industry while ignoring other industries which have experienced similarly large profit increases.

*Price rollbacks*

Recommends, instead, a price rollback and *flexibly-administered* price ceilings on those crude oil categories not now subject to price ceilings to a level of 50-percent higher than the price ceilings on "old oil."

**Dwight C. Moorhead, Vice President, Petro-Lewis Corp., Denver, Colorado:**

*Taxation of foreign produced oil*

Favors the proposal that percentage depletion allowance, writeoff for intangible drilling costs, and benefits from foreign tax credits on their international operations be reduced for U.S. oil companies. Sees no sense in the U.S. public continuing to subsidize the energy costs of foreign citizens.

*Excess profits tax*

Supports an excess profits tax applied across-the-board to all types of energy and all phases of activity in the energy industries. Argues there is little logic for a special excess profits tax on oil unless the coal industry is also subject to it. Similarly, it makes no sense to differentiate between the various activities within an industry, taxing oil production while leaving out transportation, distribution, processing and retail operations. Favors permitting expenditures to be treated as offsets to whatever excess profits tax is adopted when they are for domestic energy exploration, development, transport, fuel processing, and related ecological control. Feels these actions would result in a return of capital, equipment and personnel to domestic oil exploration and development. Points out that all these are in short supply now domestically.

Urges an exemption from the excess profits tax for the small royalty owner or tank truck operator whose earnings are under some figure such as \$25,000. Individuals with such limited stake in the oil industry would not have an effective way to recommit funds to energy development, the exemption alternative provided in most windfall profit tax proposals under consideration. Second, recommends permitting a growth trend as an alternative to a straight five-year average as the base for excess profit calculations. Considers it unfair to penalize a company realizing honest growth in its energy activities. Third, suggests making the excess profits tax effective for fiscal years commencing after March 31, 1973, which he argues would catch most windfall profits realized in the oil industry. Further, recommends permitting recovery for spending in the next year. Fourth, recommends a phase-out plan for the tax perhaps commencing three years from the date of enactment, finally ending in ten years.

**The Pan Handle Producers and Royalty Owners Association,  
Jack M. Allen, President, Amarillo, Texas:**

*Excess profits tax*

Opposes an excess profits tax on oil and gas profits. Argues profits in oil industry are not excessive when compared with profits in all

other industry, and when investment risk is taken into consideration. Claims excess profits tax will result in dislocations such as those experienced in the beef industry under price control. Charges discrimination against the oil industry if excess profits tax is limited solely to that industry. Asserts that the oil industry is in desperate need of capital for reinvestment. Since most profits after taxes will be reinvested, feels it makes no sense to subject them to an excess profits tax. Points out that the excess profits tax would most severely affect the independent oil and gas producers since they would be less able to pass the tax on to the consumer. Suggests this would encourage growing monopolization in the industry and eliminate the small operator.

**Glenn C. Ferguson, President, Independent Oil and Gas Producers of California, Los Angeles, California:**

*General*

Argues that unusually large profits are absolutely essential if the oil industry is to have the necessary capital available to meet the energy challenge: refineries need to be constructed as do plants for the processing of oil shale and the gasification or liquefaction of coal, and offshore and even onshore exploration will require very large capital flows. Claims a sudden increase in profits over a previous period of low return, such as has been experienced in the oil industry over the past 15 years, does not necessarily indicate the existence of "wind-fall profits."

**Alex Radin, General Manager, American Public Power Association:**

*General*

Presents a survey of members of the American Public Power Association representing local publicly owned electric utilities throughout the United States. Indicates that price increases to public power systems for residual fuel oil have amounted to as much as 300 to 400 percent during the past twelve months. For distillate fuels the increase has been as high as 260 percent since January 1973. Much of the price increase has occurred in the last three months of 1973. States that these higher fuel prices are of necessity passed on to the consumers and have contributed significantly to recent rises in the cost-of-living index. Argues to the extent they are not related to business costs and a reasonable rate of return they constitute a fuels industry tax on users of electricity, among others, with the chief difference being the proceeds go to the fuel companies instead of the Treasury.

**Matthew J. Kerbec, President, Output Systems Corp., Arlington, Virginia:**

*General*

Asks whether the high price medicine approach to the energy shortage might have side effects that will be worse than the shortage itself? Cites figures indicating the annual cost of crude oil to the economy

will go from approximately \$27.214 billion in 1973 to \$44.974 billion in 1974, for an increase of \$17.560 billion on a crude oil level. Argues that it is reasonable to use a 2.5 multiplier to determine the ultimate retail impact of \$43.90 billion attributable to purchases of gasoline, distillate oil, jet fuel and other products derived from crude oil. Suggests energy is critically different from any other commodity since it is necessary for all industries, unlike any other commodity. In other words, there is an energy cost associated with all raw materials and products used or produced by all enterprises in the economy. Consequently, price rises in energy products have an inflationary impact which ripples through the whole economy in a series of chain reactions. Refers to predictions by government officials and oil companies to the effect that even if the Arab oil embargo is lifted, prices in the energy area are not expected to decrease in the near future as a result of free market forces.

Analyzes the impact of fuel price hikes on food prices, transportation costs, and manufacturing costs. Predicts two likely results for the economy: either wage rates will remain relatively fixed while prices continue to increase resulting in a decrease of buying power and marked unemployment, or wage rates could increase significantly contributing to further inflation. Suggests the most likely result will be a combination of unemployment and inflation. Concludes that permitting prices for energy to rise on the grounds that further development and exploration is encouraged ignores some of the other pressures created by these substantial price rises and their impact throughout the whole economy.

*Oil price rollback*

Recommends a rollback in the price of crude oil to check inflationary spiral. Any added taxes on energy profits would only contribute to higher prices. Claims the economy does not differentiate between high prices and taxes on energy profits. Further recommends the creation of a government-owned petroleum company to expedite exploration and development of energy from Federal lands and to encourage the technology required for further development of new energy sources. Suggests the existing energy companies have too great a stake in existing energy sources to be free to encourage and support development of alternatives. Criticizes Administration policy to allow domestic oil prices to rise to world levels so as to eliminate the incentives for imports or exports. Foresees only one result, ever-increasing prices as 85 percent of domestically produced oil rises to the level of the 15 percent currently imported. Contends that excess profits tax would aggravate the energy problems. Endorses the price rollback approach as the only sensible policy.

**William J. Gorman, President, Independent Oil Producers Association of Indiana, Illinois and Kentucky:**

*General*

Strongly opposes the proposed emergency windfall profits tax and the related proposals contained in the Administration's recommendations. Challenges the assumption that crude oil prices in the near

future will exceed what is required to bring forth the production necessary to satisfy demand. Argues that the \$7 per barrel price suggested by the Treasury is inadequate by as much as \$3 per barrel. Remonstrates that recent price increases are merely long-overdue adjustments to cover replacement costs of crude produced and used. Charges the Treasury position treats price alone as the controlling factor and ignores such valid considerations as recoupment of invested capital and elements of profit, both as a fair return and as a compensation for the investment risk. Feels the Treasury estimates also ignore the marked increase in the costs of oil drilling, exploration and development.

#### *Energy Development Bank*

With regard to the Energy Development Bank proposal, objects on the grounds that money would be forcibly taken from a single segment of the energy industry and turned over to others for use; another bureaucracy would be created with no incentive to avoid wasteful and impractical activities; and there would be raiding of private industry for the expertise and employees necessary to staff such an operation.

#### *Windfall profits tax*

If a windfall profits tax is enacted, feels that some sort of plow-back mechanism is essential. Contends that any funds should be returned to the producer generating the same; qualifying expenditures should be broadly defined to include all activities with respect to exploratory development and production of newly discovered reserves of crude oil and natural gas and alternative forms of primary energy developed by the particular producer; and a two-year base period for the tax should be established which would be sufficient to establish a long-term supply price and eliminate the need for any control mechanism. There should be a carryover provision for funds not expended during the first year and the second year. In effect, only at the end of a third year should any unexpended funds revert to the Treasury.

#### **Tenneco, Inc.:**

##### *Excess profits tax*

Declares that the national goal should be self-sufficiency in oil supplies so as to eliminate dependency upon the political vagaries of foreign supplies. Opposes excess profits tax concepts unless excess profits can be clearly defined as those profits above the levels necessary to achieve the vital goal of energy self-sufficiency for the United States.

#### **Maurice F. Granville, Chairman, Texaco, Inc.:**

##### *Windfall profits tax*

Opposes any windfall or excess profits tax on the petroleum industry as well as proposals that would limit existing tax incentives. Asserts that Texaco's profits in 1973 on U.S. operations were only slightly above the depressed 1972 level of domestic earnings and that the rate of return on shareholders' equity is only relatively modest.

Also, feels that Texaco pays an extremely high level of State income and franchise taxes, oil and gas production taxes, property taxes, import duties, and other government levies.

*Foreign tax credit*

Opposes any restriction of the foreign tax credit since this would make it impossible for U.S. controlled companies to compete with foreign controlled ones in the search for foreign oil.

**Bill Rose, President, American Institute of Professional Geologists, Oklahoma Section:**

*General*

Believes that there is a growing gap between supply and demand for oil and gas in the United States but that there is substantial oil and gas still to be discovered. Asserts that discovering this requires vast amounts of capital investment that can only be provided with a high level of profits for the oil and gas industry.

**E. James Bryner, Secretary-Treasurer, Pennsylvania Oil and Gas Association:**

*General*

Believes that there is substantial oil that can be produced if prices are sufficiently high. Therefore, opposes any price rollback for oil and gas, particularly as one would apply to independent producers.

**American Mining Congress, Dennis P. Bedell, Chairman, Tax Committee:**

*Foreign tax credit*

Maintains that any restrictions on the use of the foreign tax credit should not be extended to the mining industry. Believes that American's mineral needs will only be satisfied by imports since the reserves do not exist in the United States, and that American access to such minerals would be impaired by limitations on the foreign tax credit for the mining industry. Considers U.S. tax treatment of mining operations abroad to be significantly less favorable than that of a number of other major capital exporting countries.

**Peter D. Weisse, Vice President, Cerro Corporation:**

*Recycling proposals*

Urges the committee to adopt recycling tax incentives (such as those introduced by Cong. Griffiths). Suggests that adoption of such a measure would lead to substantially increased investment in recycling facilities. States that adoption of such a proposal could permit his company to build a new \$44 million pound copper recycling plant which would both reduce our nation's dependence on foreign sources of copper and would reduce the amount of energy needed in producing copper by over 80 percent.

**Orin E. Atkins, Chairman of Ashland Oil Corporation, Ashland, Kentucky:**

*Windfall profits tax*

Argues against such a tax believing that it would substantially affect independent producers and refiners more than it would affect major oil companies. Believes that such discrimination against independent refiners and producers would be unwise since that segment of the industry has provided the true competitive basis for the industry.

*Percentage depletion*

Argues in favor of disallowing foreign percentage depletion and modification of domestic depletion so that the amount of depletion will decrease as the price of oil rises and increase as the price of oil falls. States that if domestic percentage depletion is to be disallowed, it should be replaced by some form of earned depletion, similar to what Canada has enacted, which allows deductions beyond cost for certain expenses of acquiring properties and developing them.

*Foreign tax credit*

Believes that foreign tax credit should be eliminated in the case of oil and gas production in OPEC countries. States that such expenses should be deductible because they are in substance payments for the right to extract crude oil.

*Exploration and development cost incentives*

Believes that a new program of fast depreciation of exploration and development expenditures beyond that permitted for intangible drilling costs is desirable.

**J. D. Finley, Austin, Texas, Geologist:**

*General*

Suggests that the free market be allowed to solve the energy shortage. Believes price controls should be ended and no windfall profits taxes should be enacted; thus, allowing prices to rise and the industry to collect the funds needed to expand domestic supplies.

**Paige K. Moore, Houston, Texas:**

*Windfall profits tax proposal*

Believes that any excess profits tax will produce higher consumer prices, will restrict corporate profits to the extent of producing increased oil shortages, and will prevent oil corporations from gaining the funds they need to increase development and exploration efforts.

**Jane W. Fletcher, Salem, Illinois:**

*General*

Speaks as the wife of a small, independent oil producer. States that the small producer with a lease or two has barely been able to manage a living given the prices of the past few years and that recent price increases are now giving them enough profits to allow them to begin

trying to find additional oil. Believes that punishing oil producers with an excess profits tax or other changes in the tax laws will put them out of business given increased labor and raw materials costs.

### **National Association of Recycling Industries, Inc.:**

#### *Recycling and depletion and other tax incentives*

Calls for a greater reliance on recycled resources as one answer to the growing energy shortage. Claims this would also have beneficial impact on our balance of payments and lead to reduced reliance on foreign energy sources. Affirms that not only would scarce raw materials such as minerals and timber be saved by greater use of recycling but also the fuel energies required to extract and produce the basic products.

Calls for the elimination of the discriminatory Federal income tax situation which discourages greater reliance on recycling and recommends the adoption of the Griffiths recycling tax incentives proposal which would eliminate the discriminatory tax rules that have historically favored depletion of natural resources while impeding improvement in recycling rates. Cites the Resource Recovery Act of 1970 and its direction to the Environmental Protection Agency to review the existing depletion tax allowances and to recommend whatever tax relief is necessary to accelerate the recycling of raw materials from solid wastes.

Mentions the strong support for a tax equalization concept for recycling contained in the report of the Citizens Advisory Committee on Environmental Quality in 1972. Refers to similar recommendations from the National Materials Advisory Board of the National Academy of Sciences, in August 1972; the National Materials Policy Commission and the National Industrial Pollution Control Council in September of 1972; and finally the National Materials Policy Commission again in June of 1973.

Claims the Tax Reform Act of 1969 denied five-year amortization deductions for industrial facilities realizing profits derived from products recovered from recycled waste while approving them for those firms installing pollution control equipment.

Specifically cited as encouraging greater reliance on natural resources than secondary materials are such favorable tax treatment devices as capital gains treatment for profits, depreciation schedules, depletion allowances and other tax writeoffs for the extractive industries. Adds to the list of those calling for equal tax treatment for those engaged in recycling the National League of Cities, the National Conference of Mayors, the Council of State Governments, the Council of County Governments, and the League of Women Voters.

Estimates a company which recycles metals is taxed at a 43.3 percent rate while mining companies, excluding oil companies, enjoy an effective tax rate of only 24.3 percent. Carefully distinguishes between calling for repeal or radical modification of existing capital gain and depletion allowances for extractive and timber industry and calling for equal treatment, meaning similar treatment, for the recycling industry. Wants equalization in the form of tax deductions

for those using recycled materials sufficient to overcome the competitive advantage users of virgin materials have traditionally enjoyed. Assures that it would not result in substantial revenue loss to the government since the theory behind the proposal is not to duplicate but to shift to the greatest extent possible the tax benefits now received by integrated manufacturers for the depletion of virgin materials to the utilization of recyclable materials. In the process local governments would be saved most of the high costs of waste collection, management and disposal. The second major recommendation is that the rapid amortization provisions of the Internal Revenue Code available for air and water pollution control facilities be extended to solid waste recycling facilities as defined in the Griffiths legislation.

