January 23, 2025

Via Email

The Honorable Jason Smith
Chairman, House Ways & Means Committee
1011 Longworth House Office Building
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member, House Ways & Means Committee
372 Cannon House Office Building
Washington, D.C. 20515

The Honorable Mike Crapo
Chairman, Senate Finance Committee
239 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Ron Wyden
Ranking Member, Senate Finance Committee
221 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Equalize the Tax Treatment of Oil & Natural Gas Capital Expenditures under the CAMT to Unlock Domestic Energy Production

Dear Chairman Smith, Chairman Crapo, Ranking Member Neal, and Ranking Member Wyden:

With this new Congress, we have a real opportunity to spur domestic energy production through common-sense, durable reform. This includes tax policy and the equitable treatment of capital investment to produce our own oil and natural gas.

On behalf of U.S. independent producers of oil and natural gas, we urge this Congress to rectify prior unsound and disparate tax policy embedded in the corporate alternative minimum tax (CAMT) and allow for the accelerated cost-recovery of intangible drilling costs (IDCs).[1]

IDCs are ordinary business expenses incurred in the exploration, development, and drilling of new wells — including wages, repairs, supplies, fuel, surveying, and ground clearing. Up to 80% of a producer's costs are "intangible." Yet they're not so intangible; the largest share consists of jobs and labor-related costs. That's the American men and women in the fields: the roughnecks, floor hands, lead-tong operators, motormen, derrickmen, assistant drillers, the driller, and more. These costs are real capital outlays that nearly every capital-intensive industry can deduct as accelerated cost-recovery and, in turn, immediately redeploy as investment. For us, that's new jobs, new wells, and new production.

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[1] The undersigned are the American Exploration & Production Council (AXPC), the American Petroleum Institute (API), the Independent Petroleum Association of America (IPAA), and the Domestic Energy Producers Alliance (DEPA).

AXPC is the national trade association representing America's leading independent oil and natural gas producers. Collectively, we produce about half of our country's oil and over half of our natural gas.

API represents all segments of America's natural gas and oil industry, which supports more than 11 million U.S. jobs and is backed by a growing grassroots movement of millions of Americans.

IPAA is a national upstream trade association representing thousands of independent oil and natural gas producers and service companies across the United States. Independent producers develop 91 percent of the nation's oil and natural gas wells. These companies account for 83 percent of America's oil production, 90 percent of its natural gas and natural gas liquids (NGL) production, and support over 4.5 million American jobs.

DEPA is a nationwide coalition of individuals and organizations dedicated to educating policymakers on the vital role of domestic oil and gas production in supporting the U.S. economy, energy independence, and global leadership.

But U.S. independent producers aren't treated like every capital-intensive industry under the current tax code, despite our critical role in producing more affordable, reliable, and ever-cleaner sources of energy for Americans at home and our allies abroad. Rather for producers subject to the CAMT, IDCs don't benefit from immediate deductions. They're treated as depletion deductions over the life of the asset. This means fewer jobs, less production, and higher energy prices.

This is because the 2022 Inflation Reduction Act (IRA) reintroduced the CAMT with a twist that disproportionately impacts U.S. independent producers. Under the IRA, companies that are subject to the 15% CAMT rate can reduce their financial income by claiming accelerated cost-recovery deductions for certain capital expenditures — just like they can under the ordinary corporate tax rate. Oil and gas producers, however, don't receive the same treatment under the CAMT — unlike their treatment under the ordinary corporate tax rate.[2]

The IRA created a new section 56A under the Internal Revenue Code (IRC), which defines financial statement income. Section 56A specifically allows for companies under the CAMT to reduce their financial statement income by claiming accelerated cost-recovery deductions for certain capital expenditures under 26 U.S.C. §§ 167 and 168. But there is no reference that allows for the immediate deduction of IDCs (i.e., 26 U.S.C. 263). They are treated as depletion deductions and not recoverable in the year in which they're expended. This disparity — created by the IRA and allowing for the immediate deduction of tangible property but not IDCs — leads to a substantial acceleration in CAMT liability for U.S. independent producers subject to CAMT.

Two bills would remedy this disparate and disproportionate impact. Senator James Lankford (R-OK) and Representatives Mike Carey (R-OH) and Vicente Gonzalez (D-TX) just introduced the "Promoting Domestic Energy Production Act," which provides a technical fix to § 56A. The targeted fix simply allows for the accelerated cost-recovery of IDCs for U.S. independent producers under the CAMT.[3] Meaning, our producers would receive the same tax treatment as other capital-intensive industries — and the same treatment that producers receive under the ordinary corporate tax regime.

Now is the time to fix bad policy that has had even worse consequences. The math here is simple. Capital goes to well exploration, well development, and well production. Through innovation and ingenuity, America's independent producers have revolutionized our energy economy, turning our country into the world's leading producer of both and natural gas. That's in part because of increased efficiencies and steady investment in new production.

But the life of a new well is limited. Today, new wells in our most viable shale basins decline by about 50% after the first year of production and another 30% after the second year.[4] In the Permian Basin, for example, a typical new well peaks at about 600 barrels/day in the first couple of months of coming online but then declines to about 200 barrels/day within one year and to about 100 barrels/day by year two.[5] The immediate deductions of IDCs — and their equitable treatment under CAMT — together enable oil and natural gas producers to re-invest more capital into the next well.

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[2] Under the ordinary corporate tax rate, U.S. independent producers can deduct IDCs immediately under accelerated cost-recovery.

[3] *See* Promoting Domestic Energy Production Act, S. 3381, 118th Cong. (2024); Promoting Domestic Energy Production Act, H.R. 5073, 118th Cong. (2024).

[4] Trent Jacobs, Life After 5: How Tight-Oil Wells Grow Old, Journal of Petroleum Technology (2020), available at link.

[5] U.S. Energy Information Administration, Drilling Productivity Report Supplement: Gas-to-Oil Ratios in U.S. Primary Oil-Producing Regions (2021), available at link.

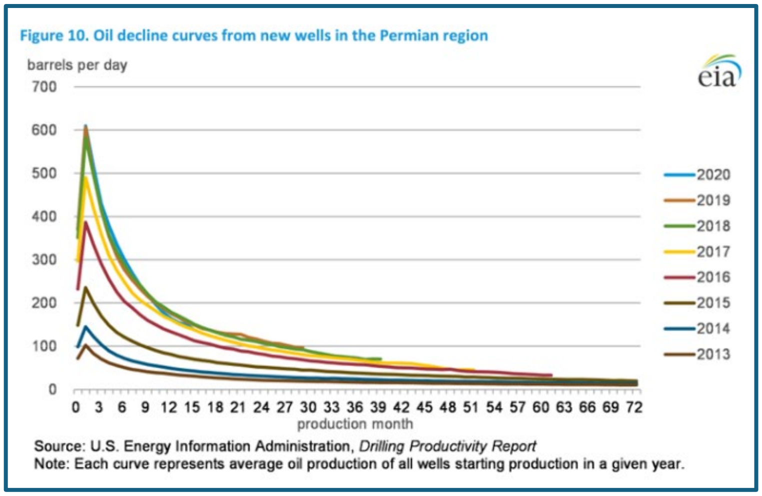

Figure 10. Oil decline curves from new wells in the Permian region

Source: U.S. Energy Information Administration, *Drilling Productivity Report*
Note: Each curve represents average oil production of all wells starting production in a given year.

This is the real-world impact of restrictions on capital investment for new wells and production. While many policy tools are available to foster American energy production, perhaps no more effective policy solution exists than a fair and equalized tax regime.

We urge this Congress to pass legislation that ensures equitable tax treatment for American producers of oil and natural gas to unlock American energy: Allow for the accelerated cost-recovery of IDCs under the CAMT.

Sincerely,

Parker D. Kasmer
Vice President, Government Affairs, AXPC

Dr. Aaron Padilla
Vice President, Corporate Policy, API

Dan Naatz, Chief Operating Officer
& Executive Vice President, IPAA

Jerry Simmons, President & CEO, DEPA