

OSU

# Current Report

Cooperative Extension Service • Division of Agriculture • Oklahoma State University

## WINDFALL PROFIT TAX ACT OF 1980 AND OTHER TAX CHANGES

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The Windfall Profit Tax of 1980 has several features. It includes the tax on crude oil, credits for home owners, energy incentives for business, repeal of carryover basis and some miscellaneous items. This report will briefly cover some of the highlights.

### Crude Oil Excise Tax

This tax is rather complex in that the tax is imposed at several different rates depending on the type of oil, and whether the owners are independent or major producers or are royalty owners. The formula for computing the tax is the selling price, minus adjusted base price, minus severance tax adjustment. The resulting figure is then multiplied by the tax rate to determine the excise tax or the windfall profit tax. See Table 1 for an example. Adjustments will be made in the base price from time to time for inflation.

See Table 1 for the different types of crude oil, the base price and the tax rates.

Price controls on crude oil will end on September 30, 1981. This Act did not change the tax provision regarding depletion.

Generally, the first purchaser of the oil is to withhold the windfall tax from the amount payable to the oil producer subject to withholding, deposit the tax with the government

and file a quarterly return to the government. The operator of the property is required to furnish the first purchaser of the oil a "certification" of information for each property as to applicable tax tiers, adjusted base price, volumes of the various categories of oil produced and other information.

Thus, the withholding of the tax is based upon information which the operator provides the first purchaser and if this information is incomplete, the first purchaser is required to withhold the maximum amount which will be adjusted later as the information is supplied or supplemented.

There are exemptions - Alaskan oil, Indian tribes, state and local governments. There are many details that apply to independent and major producers.

To prohibit tax liabilities exceeding profits, the law provides that no barrel of oil can be taxed at a rate that exceeds 90% of the net income from the sale of that barrel. The procedure for determining this profit is spelled out in detail and primarily applies to producers of oil.

The Windfall Profit Tax is deductible when computing taxable income. The amount of Windfall taxes paid should be deducted from gross income to arrive at taxable income.

TABLE 1  
WINDFALL PROFITS TAX

<u>Crude Type</u>	<u>Base Price</u>	<u>Tax Rate <sup>A/</sup></u>
Tier One	\$12.81 <sup>B/</sup>	50 or 70%
Tier Two	\$15.20	30 or 60%
Tier Three	\$16.55	30%

Tier One - Oil discovered before 1979.

Tier Two - Stripper oil and from National Petroleum reserve. Does not exceed 10 barrel day in any 12 month period. (no control on this oil).

Tier Three - Newly discovered oil, heavy oil and tertiary oil.

Example: Tier two oil	\$39.00 Selling Price
	-15.20 Base Price
	- 2.76 State Gross Production and Excise Tax
	<hr/>
	\$21.04
	<hr/>
	60%
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	\$12.62 Federal Excise Tax (Windfall Profits Tax)

<sup>A/</sup> Upper rate for major oil companies and royalty owners. The lower rate for tier one and two is for independents, limited to first 1000 barrels a day.

<sup>B/</sup> Oil receiving a lower price than the base price is not taxed until it reaches the base price. These base prices will be adjusted for inflation.

### New Credit for Alcohol Fuels

The credit is 40 cents per gallon for 190 proof and 30 cents per gallon below 190 proof. No credit is allowed for alcohol below 150 proof. Also no credit is allowed if made from natural gas or coal.

If a producer of alcohol mixes it with gasoline and uses it in his trade or business he gets the credit; also he gets the credit if he sells it. A farmer, however, who buys gasahol at the gas station doesn't receive the credit even if used in his business.

The credit is includable in income subject to tax and applies to fuel used or sold after September 30, 1980. The excess credit may be carried forward seven years.

The 4 cents a gallon excise tax exemption on gasahol was extended to December 31, 1992.

### Tax Credits for Home Owners

The new law increased the credit for residential installation of sun, wind, and geothermal energy equipment. Beginning in 1980, a credit of 40% on expenditures up to 10,000 or a \$4,000 maximum is allowed. The previous maximum had been \$2,200 (30% of first \$2,000 and 20% of next \$8,000).

The credit may be claimed for renewable energy source equipment for items installed for use with new as well as existing homes. The list of qualified equipment now includes solar or geothermal equipment used to provide electricity. Previously it applied only to equipment used for heating, cooling or providing hot water. Other items such as on site wells for geothermal deposits and solar roof panels as part of a roof are now included. Taxpayers cannot however combine income tax credits and government subsidies for the same energy expenditure.

### Added Energy Incentives for Business

For expenditures after 1979, the credit for sun and wind energy property is raised from 10% to 15% and the expi-

ration date is changed from December 31, 1982 to December 31, 1985. These credits are no longer refundable for years after 1979. Other business credits pertain to ocean thermal property, small scall hydroelectric property and for useable energy as a byproduct of an energy-using system.

The expiration date for biomass property is extended from December 31 1982 to December 31, 1985. The extension does not cover equipment for converting biomass to alcohol fuel if the equipments primary energy source is oil, natural gas or their by products. A new credit for fuel production from non conventional sources has been added. Some examples are oil from shale or tar sands, gas from geopressed brine, coal seams, bio mass, synthetic fuels and feedstocks from coal; also steam from solid agricultural by products other than timber. In general the credit is about \$3 for a quantity of fuel that would yield energy equal to that of a barrel of oil.

### Carryover Basis Repealed

The carryover basis rules passed by the 1976 Tax Reform Act were repealed by the Windfall Profits Tax Act of 1980. This means the basis on inherited property will be figured as though the carryover rules had never been enacted. A special election could have been made for the estates of decedents who died between December 31, 1976 and before November 7, 1978; the election for these estates had to be made by July 31, 1980. The election would have permitted these estates to be subject to the carryover rules.

### Larger Exclusion for Dividends

Effective for the tax year 1981 and 1982 the present exclusion for dividends becomes a dividend and interest exclusion. The exclusion is \$200 for individuals and \$400 for couples filing jointly. Under the new law if one spouse has \$400 worth of dividends and interest and the other spouse none, \$400 can be excluded if they file a joint return. Under the old law only \$100 of dividends could have been excluded.

## Technical Correction Act of 1979

President Carter signed the Technical Correction Act of 1979 on April 1, 1980, the day before he signed the Crude Oil Windfall Profit Tax Act. The Technical Correction Act made technical clerical and clarifying amendments to the 1978 Revenue Act and Energy Act as well as the Foreign Earned Income Act.

The Act made the 10% investment credit rate permanent. It was due to revert back to 7% on 1/1/81. It clarified the effective date in capital gains changes in the 1978 Revenue Act. For example the 60% capital gains deduction applies to gains after 10/31/78 from pre - 11/1/78 installment sales.

Other tax areas affected include the alternate minimum tax, restrictions

on business entertainment deductions, foreign excess living deduction, at risk tax shelter rules, and certain clarification on retirement plans.

There were also clarifications on replacement property for the special use valuation property which was involuntarily converted. The qualified replacement property is also subject to the special lien.

## Standard Mileage Rate Increased

The IRS has increased the standard mileage rate from 18½¢ to 20¢ per mile for the first 15,000 miles. (Rev. Proc. 80-32) Beyond 15,000 miles it is increased from 10¢ to 11¢. Auto travel for charity, medical reasons and job related moving expenses goes up to 9¢ per mile. All of the changes are retroactive to January 1, 1980.