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ATR Obama Budget Analysis: Energy Tax Hike Series

IRS Sec. 199 Repeal

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Current Law

The Internal Revenue Code (IRC) Section 199, the Domestic Production Activities Deduction, benefits all companies who produce goods on American soil – yet only energy companies are targeted for the cuts in deduction rates.

Prior to harmful energy legislation passed last Congress, businesses engaged in a qualifying production activity were eligible to take a tax deduction of 3% of the profits from this qualifying activity in tax years 2005 and 2006. The deduction increases to 6% in 2007, and 9% in 2010 and beyond.

However, the Pelosi-Reid energy agenda has implemented a Sec. 199 “freeze” at 6% - only for energy companies, thus further carving out their niche for non-traditional energy.

Obama Proposal

The Obama budget proposes a full repeal of Sec. 199 – but only for energy companies.

ATR Analysis

According to Paul Schlather, a senior tax partner with PricewaterhouseCoopers, “Every small business in the manufacturing industry should be looking at this as a tax deduction. While Section 199 comes with a very complex set of rules, chances are small businesses will qualify for the deduction much easier than the rules depict.”

34 Senators and 172 Congressmen have signed the Taxpayer Protection Pledge. In so doing, they promised to their constituents and the American people that they would “oppose any net reduction or elimination of deductions or credits...”

Repealing the Section 199 deduction IS A CORPORATE INCOME TAX INCREASE and is therefore a PLEDGE VIOLATION *unless* the increase is offset completely with other income tax cuts.

Note: Budget neutrality (which is concerned with deficits) has no role in determining applicability of the Pledge. Rather, tax revenue neutrality (as scored by the JCT) is the only relevant metric for the purposes of the Pledge.

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