AMERICAN ENERGY INDEPENDENCE & TAX FAIRNESS ACT

The American Energy Independence & Tax Fairness Act amends the Internal Revenue Code of 1986 to include foreign oil and gas extraction income in net Controlled Foreign Corporation (CFC) tested income, to include income from the extraction of minerals from oil shale and tar sands in the definitions of foreign oil and gas extraction income and foreign oil related income and amends rules for dual capacity taxpayers.

SECTION 1. FOREIGN OIL AND GAS EXTRACTION INCOME INCLUDED IN NET CFC TESTED INCOME.

This section amends Section 951A(b)(2)(A)(i) of the Internal Revenue Code of 1986 to include corporate foreign oil and gas extraction income (FOGEI) in tax calculations for a controlled foreign corporation (CFC). As a result, FOGEI would be included in the net CFC tested income of a CFC for purposes of determining a U.S. shareholder's income inclusion from the CFC.

The amendments apply to taxable years of foreign corporations beginning after the date of the enactment, and to taxable years of United States shareholders in which or with which such tax years of foreign corporations end.

SEC. 2. FOREIGN OIL AND GAS EXTRACTION INCOME AND FOREIGN OIL RELATED INCOME TO INCLUDE OIL SHALE AND TAR SANDS.

This section amends Section 907(c) of the Internal Revenue Code of 1986, to include income from the extraction of minerals from oil shale and tar sands in the definitions of foreign oil and gas extraction income and foreign oil related income.

(Current regulations exclude hydrocarbon minerals derived from shale oil or tar sands from the meaning of minerals in the US tax code, which permits additional corporate foreign tax credits to be created to offset additional U.S. corporate taxes.)

The amendments apply to taxable years beginning after the date of the enactment.

SEC. 3. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO CERTAIN TAXPAYERS RECEIVING SPECIFIC ECONOMIC BENEFITS.

This section modifies Section 901 of the Internal Revenue Code of 1986 regarding foreign tax credit rules for dual capacity taxpayers earning foreign oil and gas income to prevent corporations from aggressively recharacterizing royalty payments to foreign governments as taxes in order to claim a higher foreign tax credit to offset U.S. income tax.

The amendments apply to taxable years of foreign corporations beginning after December 31, 2026, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.