Exhibit 4.

Nominal v. Actual Federal Income Tax Rates

Nominal v. Actual Federal Income Tax Rates

Nominal v. Actual Federal Income Tax Rates: The Problem
[Exhibit 4]

Analysis: Gas price spike revives fight over energy taxes
[Exhibit 4 Background Information, Sheet 1]

[Exhibit 4 Background Information, Sheet 2]

[Exhibit 4 Background Information, Sheet 3]

Nominal v. Actual Federal Income Tax Rates: The Problem

Exhibit 4

Most informed observers would probably agree that corporations are not likely to pay taxes at the nominal corporate federal income tax rate of 35%. But exactly what each corporation pays annually is by no means clear. Due to loopholes in this system and tax information shielded by confidentiality, it is difficult to determine exactly what corporations do pay annually. Citizens for Tax Justice (CTJ) joined the Institution on Taxation and Economic Policy to take what it called "a hard look at the federal income taxes paid or not paid by 280 of America's largest and most profitable corporations in 2008, 2009 and 2010." The companies covered in that report – all from the *Fortune 500* and profitable in each of the three years analyzed – were ostensibly required to pay a 35 percent corporate income tax rate but only paid, on average, about half that amount. CTJ reported that "a quarter of the companies in our study paid effective federal tax rates on their U.S. profits of less than 10 percent, while some paid nothing at all." However, CTJ was quick to add, "an almost equal number of our companies paid close to the full 35 percent official corporate tax rate." CTJ concluded that "corporate tax loopholes are so out of control that most Americans can rightfully complain, 'I pay more federal income taxes than General Electric, Boeing, DuPont, Wells Fargo, Verizon, etc., etc., all put together.' That's an unacceptable situation."[1]

Federal tax breaks identified by CTJ include accelerated depreciation, industry-specific tax breaks (including oil and gas), domestic deductions and credits offsetting foreign tax payments.[2] Assignment of tax returns to specific years is complicated by tax loss carry-forward and carry-back provisions. According to an on-line tax advisor:

> A <u>tax loss carry forward</u> is a provision in the Tax Code to allow a business to use a to use a net operating loss in one year to offset a profit in one or more future years….You can elect to carry forward an NOL up to 20 years.
>
> A <u>tax loss carry back</u> is a similar type of provision, which allows the business to carry a net operating loss back to offset profits in previous years.[3]

CTJ's reportage on ExxonMobil's earnings gives an indication of the extent to which federal income tax payments can vary from the nominal 35% federal income tax rate of tax payments:

Year	*2008*	*2009*	*2010*	*2011*
Pre-Tax Profit (mm$)	$9,745.5	$2,490.8	$7,419.4	<n.a.>
Federal Income Tax	$2,744.5	($953.8)	$992.4	<n.a.>
Rate (%)	28.2%	-38.3%	13.4%	13.0%

<u>2008 – 2010:</u> *Corporate Taxpayers & Corporate Tax Dodgers*, 2008-2010, p. 44;
<u>2011:</u> Citizens for Tax Justice, as reported by Reuters "Big U.S. oil "effective" tax rates, 2011" (see Exhibit 4, Background Information, Sheet 2.

In assessing North Slope profits through 2005, former Atlantic Richfield projects manager who chaired the Trans-Alaska Pipeline Company owners committee wrote that "[t]he effective federal tax rate of 21 percent was approximately one-half the average federal corporate income tax rate over the investment period." [4]

---

[1] Robert S. McIntyre (Citizens for Tax Justice), *et al.*, *Corporate Taxpayers & Corporate Tax Dodgers, 2008-2010* (Citizens for Tax Justice & the Institute on Taxation and Economic Policy), November 2011, p. 1.

[2] *Corporate Taxpayers & Corporate Tax Dodgers, 2008-2010* , pp. 12-14 and 50-52 and 66.

[3] Jean Murray (About.com Guide), "What's the Difference between a Loss Carry Back and a Loss Carry Forward? (accessed at http://biztaxlaw.about.com/od/businesstaxdeductions/f/Difference-Between-A-Loss-Carry-Back-And-A-Loss-Carry-Forward.htm).

[4] John M. Miller, *The Last Alaskan Barrel: An Arctic Oil Bonanza that Never Was* (Caseman Publishing, 2011), p. 106.

Exhibit 4.: Background Information

Analysis: Gas price spike revives fight over energy taxes

(Exxon Mobil, the world's most profitable corporation, says it paid more than 45 percent of its 2011 income in taxes, while critics say it paid much less.

By Kim Dixon– Mar. 26, 2012 (Washington, DC)
(Reuters)

Accessed April 21, 2012 at http://www.reuters.com/article/2012/03/26/us-usa-tax-bigoil-idUSBRE82P0DX20120326

So which is it?

The answer is that it depends on how the calculation is made and who is making it - a point that is becoming more important as gasoline prices and oil company profits soar.

Energy industry taxes are again a political issue, with just months to go before the November 6 congressional and presidential elections. President Barack Obama says he wants to kill $40 billion in tax breaks enjoyed by giants such as Exxon, Chevron and Conoco.

"Oil companies are making more money right now than they've ever made," Obama said earlier this month. "On top of the money they're getting from you at the gas station every time you fill up, they want some of your tax dollars as well."

But the companies say they already pay among the highest corporate tax rates.

"We're the highest taxed industry that I'm aware of," Chevron Chief Executive John Watson said earlier this month.

The difference between the effective tax rate cited by Exxon and lower rates cited by groups such as Citizens for Tax Justice, a left-leaning tax activist group, has several causes.

One is that the company counts foreign taxes paid, while Citizens for Tax Justice does not. Another is that Exxon counts deferred taxes, as well, but the consumer group does not. Still another is which profits are counted by the company and critics.

There are other technical variations shaping the calculations of effective tax rates, but these subtleties are often lost in the sound bites of the ongoing tax policy debate.

Depending on your perspective, oil industry tax breaks are either a vital part of reducing U.S. dependence on foreign oil or a giveaway to rich and powerful corporations. Politicians from both parties play regularly on these themes.

Either way, as lawmakers slowly move toward revamping the U.S. tax code for the first time in 25 years, the oil industry's tax breaks and tax rates are under growing scrutiny.

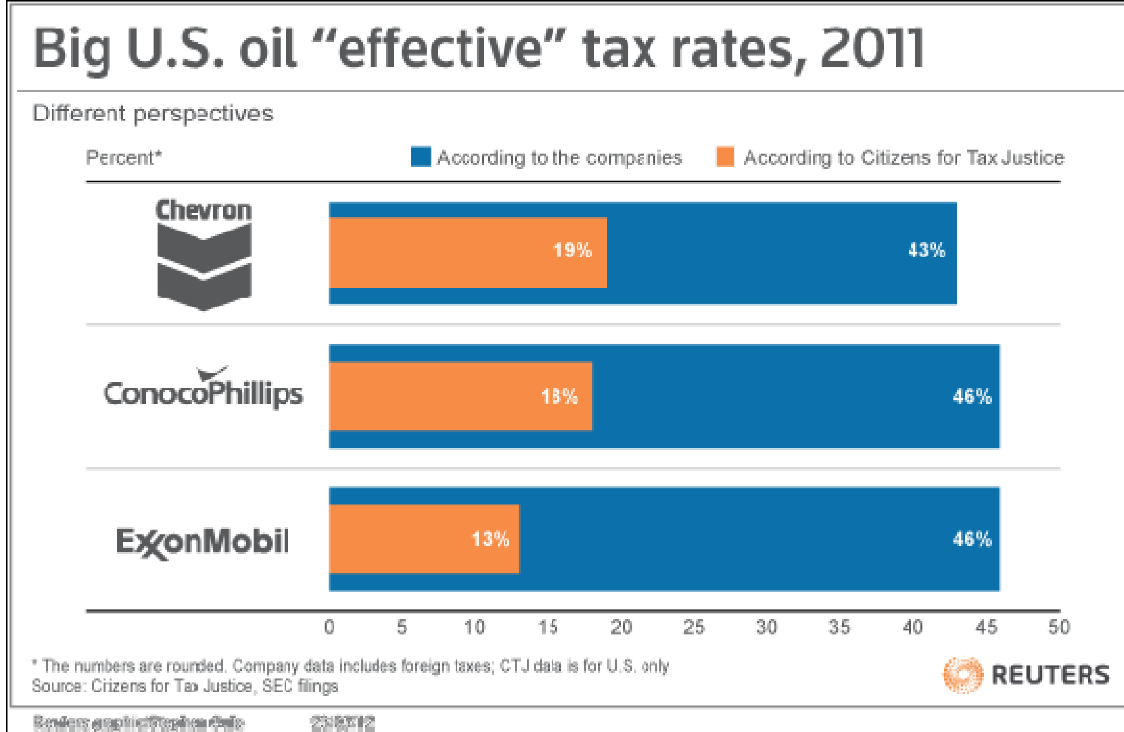
Democrats in the Senate on Monday will begin debate on repealing the tax breaks. There is little chance of repeal happening now, but the issue will carry into the campaign.

Republican presidential hopefuls Mitt Romney and Rick Santorum have blasted Obama for over-regulating the industry.

The next big action on taxes is expected at the end of the year, coinciding with the December 31 expiration of individual tax rates enacted under Republican President George W. Bush.

"That will be crazy and chaotic and anything can happen in that kind of scenario," said Jim Lucier, an analyst at institutional investor advisory Capital Alpha Partners.

Reuters Analysis (Continued)



– GRAPHIC-Big Oil's tax rates link.reuters.com/hyk37s

BIG OIL EARNS BIG

Four of the five biggest oil companies ranked among the top 10 most profitable companies in 2011, according to Fortune, with collective profits of about $80 billion. BP Plc, beset by costs from the Gulf oil spill, had losses, bringing down the average.

The biggest oil companies' tax rates are relatively high when the foreign taxes that they pay are included. On a U.S.-only basis, their rates vary.

There are many ways to calculate how much a company actually pays in U.S. taxes. One roadblock to making independent tax rate estimates is that tax filings are confidential, and filings with securities regulators use a different accounting method.

"Most of what they are putting on their financial statements doesn't really tie to what they are putting into their tax returns," said George Yin, a former chief of staff at the congressional Joint Committee on Taxation.

When calculating the headline tax rates it displays to the public, the industry lumps together U.S. and foreign taxes. It includes taxes that are deferred and thus not paid yet. U.S. companies must pay taxes on profits earned abroad, but they can defer these taxes until they bring the cash into the country.

That is the method behind the American Petroleum Institute's 41 percent estimate for the industry as a whole.

Citizens for Tax Justice considers U.S. profits and U.S. taxes paid only. By that measure, Exxon Mobil paid 13 percent of its U.S. income in taxes after deductions and benefits in 2011, according to a Reuters calculation of securities filings.

Chevron paid about 19 percent by that method, near CTJ's average for all industries.

Reuters Analysis (Continued)

It is a far cry from the 35 percent top corporate tax rate.

Still, the three-year average for telecom companies is 8 percent; for information technology services companies, it is 2.5 percent, according to CTJ.

"A lot of the techniques that multinationals use to reduce taxes are simply not available to big energy companies," said Howard Gleckman, a fellow at the Tax Policy Center, a centrist think tank.

BIG OIL LACKS IP EDGE

One way big technology and drug companies cut U.S. taxes is by shifting intellectual property income to lower-tax countries. Oil and gas companies, in general, don't benefit from that.

Bob McIntyre, president of Citizens for Tax Justice, said the fact that oil companies still drill in high-tax countries like Saudi Arabia proves they will keep drilling if their U.S. taxes go up. "Their foreign tax rates are very high, and they don't leave Saudi Arabia," McIntyre said.

One major tax break for energy companies is a nearly century-old benefit letting them deduct "intangible drilling costs" (IDC) immediately rather than over time.

Most of the IDC is for the labor costs of drilling a well.

Legislation drafted by Democratic Senator Robert Menendez would limit this break, among others. Ending it completely would raise $14 billion over a decade, according to the White House.

Energy companies liken this benefit to the research and development tax break employed by companies like Apple Inc.

"All the labor (that) tech companies spend on research and development, everything that Apple spends designing the next new product, they recover," said Brian Johnson, a tax expert at the American Petroleum Institute. "Cost recovery is cost recovery."

Not exactly. Many tax experts across the political spectrum said the IDC is a clear exception made for oil. As a rule, expenses that produce income in the future are not immediately deductible.

LITTLE OIL

Most oil companies are not as big as Exxon or Chevron. Mid-sized, independent producers include Devon Energy Corp and Chesapeake Energy Corp. These companies get even more generous benefits than the giants.

Indeed, the Center for Tax Justice finds Devon recorded a 5.5 percent three-year average tax rate and Chesapeake had an 8.1 percent average over the period.

"What is absolutely critical is the profound distinction between little oil and big oil - the smaller companies receive pretty generous breaks," said economist Alan Viard of the conservative American Enterprise Institute.

For example, the so-called percentage depletion allowance lets these mid-sized companies take an annual 15 percent deduction for depletion of oil and gas resources in the ground, instead of deducting the decline in value over time.

Obama wants to repeal this benefit as well.

The biggest oil companies don't get this benefit. Viard called it an "indefensible loophole."