Dear Chairman Camp, Ranking Member Levin, Chairman Baucus and Ranking Member Hatch:

As Congress gathers to address issues for the remainder of this session, of the many items that may be offered are tax increases on American oil and natural gas production. Action that would target a single industry that is so critical to America's economy should not be carelessly wedged into a last minute legislative package. While there are a number of oil and natural gas tax provisions targeted by the Obama Administration, this letter addresses a specific provision that affects small businesses and royalty owners only – repeal of percentage depletion.

Why has the Obama Administration targeted percentage depletion?

Is it one of those provisions that has been in the tax code for a century? Yes – well, almost. While cost depletion has been in the tax code since 1913, percentage depletion was added in 1926 when Congress realized that without value depletion, national resources would be lost because they would become uneconomic. But all minerals are allowed to have percentage depletion and the Administration only seeks repeal of oil and natural gas percentage depletion and coal percentage depletion. So, percentage depletion must not be bad tax policy.

Is it a tax provision that helps the big oil companies that the Administration so often singles out in its rhetoric? No, oil and natural gas percentage depletion is only available for independent producers first 1000 barrels/day of production and for royalty owners – farmers, ranchers, retirees whose families own mineral resources. Oil and natural gas percentage depletion is really a provision that affects small businesses and individuals.

These small producers operate America's marginal oil and natural gas wells. Are these wells important to America's production? You bet. Marginal oil wells account for 20 percent of US production; marginal gas wells account for about 13 percent of US natural gas production. The International Energy Agency has projected that the US could be the world's largest oil producing country by 2020 and North America could become energy independent. These changes have huge implications for America's energy security and its foreign policy. But, marginal oil and
natural gas production are an integral part. Loss of percentage depletion puts marginal well production in jeopardy.

Repealing percentage depletion would impact millions of royalty owners across the United States. Royalty owners exist in every state and Congressional District. Often, royalty payments are a major component of a royalty owner’s income – particularly for retirees. Elimination of percentage depletion would have the unintended impact of harming these individuals.

So, what is the Administration's rationale for repealing oil and natural gas percentage depletion? Its budget request documents have justified repeal because when the provision “…encourages overproduction of oil and gas, it is detrimental to long-term energy security….” As an Administration that touts the importance of increased American oil and natural gas production, this seems like an oddly inconsistent justification.

What all this really says is that Congress should not make quick, precipitous decisions to change the tax code that could have fundamental negative effects on America's small business oil and natural gas producers and on royalty owners. These are not issues that should be changed in the Lame Duck session of Congress.

Sincerely,

Barry Russell
Independent Petroleum Association of America

Brian Petty
International Association of Drilling Contractors

Kelly Robbins
Arkansas Independent Producers and Royalty Owners

Doug Flanders
Colorado Oil and Gas Association

Ed Cross
Kansas Independent Oil & Gas Association

Frank Mortl
Michigan Oil and Gas Association

Jerry Simmons
National Association of Royalty Owners

Kenny Jordan
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California Independent Petroleum Association

Brad Richards
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Bruce Hinchey
Petroleum Association of Wyoming

Greg Kozera
Virginia Oil and Gas Association

Ben Shepperd
Permian Basin Petroleum Association

Charles Smith
Indiana Oil and Gas Association

CC: The Honorable John A. Boehner
    The Honorable Nancy Pelosi
    The Honorable Harry Reid
    The Honorable Mitch McConnell
    The Honorable Eric Cantor
    The Honorable Steny Hoyer
    The Honorable Richard J. Durbin
    The Honorable Jon Kyl
    The Honorable Timothy F. Geithner
    All Members of the Committee on Ways and Means
    All Members of the Committee on Finance