



March 23, 2022

## Crude Oil Windfall Profits Taxes: Background and Policy Considerations

Recent increases in gasoline prices and reports of high profits from large oil companies have contributed to congressional interest in a crude oil windfall profits tax.

### What Are Windfall Profits?

Windfall (or excess) profits taxes are, in theory, designed to tax the portion of profits a firm derives from an external event. Windfall profits are generally believed to be those that represent an excessive, unearned, or unfair gain. Oftentimes, windfall profits taxes are discussed in the context of oil markets, where fluctuations in the price of oil are associated with volatile profits in the industry. It is possible windfall or excess profits may be realized in other industries. It has been suggested that some companies (certain technology companies, for example) may have realized excess or windfall profits as a result of the Coronavirus Disease 2019 (COVID-19) pandemic.

Rising oil prices can be associated with rising industry profits, and falling oil prices may be associated with losses in the industry. Figure 1 plots the monthly average West Texas Intermediate (WTI) crude oil prices against annual profits, as reported by the Bureau of Economic Analysis (BEA), in the oil and gas extraction industry and petroleum and coal product manufacturing sector.

Oil industry profits have fluctuated with oil prices over time. Profits have tended to be stronger in periods when prices are relatively high, with losses occurring during periods when prices are comparatively low. Numerous economic factors affect industry profitability. Oil prices are

highlighted here, as high oil prices are a motivation behind current windfall profit tax proposals.

### Taxing Windfall Profits

#### Income Tax Approach

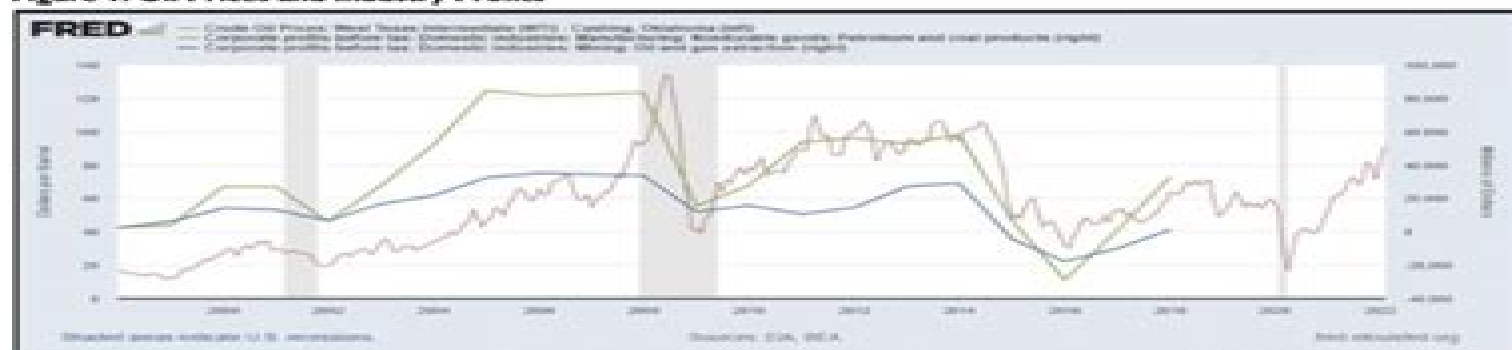
The income tax system could be used to impose a windfall profit tax (WPT). Under this approach, the tax base might be the excess of adjusted taxable income in the tax year over taxable income in a base period. Adjustments could allow taxpayers to avoid the WPT by making certain types of investments, for example. An alternative could be to tax profits above a legislatively determined rate of return.

#### Excise Tax Approach

From 1980 to 1988, the United States imposed a Crude Oil Windfall Profits Tax (P.L. 96-223), which was in the form of an excise tax on domestic production. The tax was a percentage of the difference between the price of oil and a base price indexed for inflation (70% for integrated oil companies; 50% for others). Lower rates applied to certain types of production (including marginally productive wells, called stripper wells, and newly discovered oil) and even lower rates to heavy oil and oil recovered by more costly tertiary methods.

The 1980s WPT was imposed following the elimination of price controls on crude oil, which had been in place beginning in 1971.

Figure 1. Oil Prices and Industry Profits



Source: Energy Information Administration (EIA) and Bureau of Economic Analysis (BEA) data retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/>, March 22, 2022.

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**RD Boyd**



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