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**COVER**

*Helmerich & Payne IDC's FlexRig 238 is working for Marathon Oil in East Texas. An SPE/IADC paper discusses the FlexRig's track record. A preview of the technical presentations begins on page 11. Photo credits: Top left: Halliburton; Top right: Columbia Natural Resources, Union Drilling Company.*

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**CAPITAL WIRELINES**

**Self-propelled land rigs retain tax exemption in victory for IADC**

**Brian T Petty, Senior Vice President-Government Affairs**

**HR 4520 (Washington)**—In a significant victory for IADC and other users of “mobile machinery”, including self-propelled land rigs, offroad equipment retained its tax-exempt status. The IRS had threatened to reclassify such equipment as “highway vehicles” subject to a variety of federal excise taxes normally applied to cars and trucks. It was motivated because of the proliferation of lightweight utility trucks used for telephone and electric line repairs, and which travel substantially on public highways, but not paying federal excise taxes for highway maintenance. The IRS therefore declared that it would remove the tax exemption for all offroad machinery to raise revenue, despite decades of settled law and regulation in determining which vehicles are actually designed for offroad use as opposed to onroad use.

IRS regulations historically defined a highway vehicle as any self-propelled vehicle or trailer or semitrailer designed to transport a load over the public highway, whether or not also designed to perform other functions. Excluded from the definition of highway vehicle were (1) certain specially designed mobile machinery vehicles for non-transportation functions (the “mobile machinery exception”); (2) certain vehicles specially designed for off-highway transportation for which the special design substantially limits or impairs the use of such vehicle to transport loads over the highway (the “off-highway transportation vehicle” exception); and (3) certain trailers and semitrailers specially designed to function only as an enclosed stationary shelter for the performance of non-transportation functions off the public highways.

Over the past 2 years, IADC as part of the Mobile Machinery Coalition sought federal legislation to overrule the IRS initiative to eliminate its past separate treatment of “highway” and “non-highway” vehicles. It was hoped that the 2004 federal highway bill would be the vehicle for that, but it failed to pass Congress. The Coalition thus changed course and attached its provision to HR 4520, the “JOBS” bill which came alive in the closing weeks of the session and was ultimately signed by the President. Insofar as the mobile machinery exemption is concerned, the legislation restores the 3-part design test historically used by the IRS to determine what is authentically offroad equipment, but limits the tax exemption to equipment that travels on the public highways less than 7,500 miles per year. This limit covers most if not all self-propelled drilling and well-servicing rigs.

The legislation now mandates the three-part design test as follows:

“MOBILE MACHINERY- Any vehicle which consists of a chassis--

(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling [emphasis added], timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.”