

# Illegal tax scheme gives \$140 billion to biggest US banks

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An extra-legal measure quietly enacted by the Treasury Department in the shadow of the \$700 billion Wall Street bailout package will hand the country's biggest banks another \$140 billion windfall, the *Washington Post* reported this week.

In a five-sentence memo issued on September 30, on the eve of the first House vote on the bailout bill, the Treasury Department unilaterally overturned a two-decade-old tax law passed by Congress. The measure denied profitable companies the ability to shield their profits from taxation by buying up bankrupt firms as shell companies and using their losses as a tax dodge.

The law, section 382 of the tax code, was enacted by Congress in 1986. It was aimed at curtailing what was seen as an egregious corporate scamming of the tax system. The Republican right and corporate lobbyists have been pushing for the measure's repeal or amendment ever since.

Treasury Department spokesman Andrew DeSouza defended the action, telling the *Post* that the administration had the power to overturn a law passed by Congress as part of its mandate to interpret the tax code. He further insisted that the action was a necessary means of rescuing the banks from the financial meltdown.

"This is part of our overall effort to provide relief," he said.

The *Post* reported in its November 10 article: "More than a dozen tax lawyers interviewed for this story - including several representing banks that stand to reap billions from the change - said the Treasury had no authority to issue the notice."

"Did the Treasury Department have the authority to do this? I think almost every tax expert would agree that the answer is no," George K. Yin, the former chief

of staff of Congress's Joint Committee on Taxation, told the *Post*. "They basically repealed a 22-year-old law that Congress passed as a backdoor way of providing aid to banks."

The action by the Treasury Department has been dubbed the "Wells Fargo Ruling," as it apparently provided direct aid to the successful bid by Wells Fargo to buy up the failing Wachovia bank. According to sources cited by the *Post*, the tax change will net Wells Fargo \$25 billion from the deal.

In other similar takeovers, PNC bank, enjoyed a windfall of \$5.1 billion in its takeover of National City as a result of the scrapping of the tax law, while the Spanish Banco Santander gained another \$2 billion because of the change when it gobbled up Sovereign Bancorp.

The clear aim of the tax measure was to steer the hundreds of billions of dollars that have been injected into the biggest private banks into the profitable buying up of their weaker competitors, thereby facilitating the concentration of economic power in the hands of a few giant banks, allowing them to exercise monopoly control over the financial system.

The cost of the measure will be paid by American working people, who will be faced with the slashing of funds for health care, education and other vital social programs in order to make up for the tax giveaway to the banks.

The most revealing aspect of the *Post* article is its depiction of the reaction of the Democratic leadership in the US Congress to the Treasury Department's usurpation of power through the unilateral repeal of a law by executive fiat.

As the article makes clear, neither Treasury Secretary Henry Paulson nor anyone else in the department bothered to inform Congress of the action.

While leading legislators were described as "outraged" when they discovered the action days later, they acted deliberately to keep it from being revealed to the American people.

"Lawmakers worried about discussing their concerns publicly," the *Post* reported. When a conference call was organized between Treasury and Capitol Hill staff members, the staff of Senator Max Baucus (Democrat-Montana), the chairman of the Finance Committee, "asked that the entire conference call be kept secret," the *Post* reported.

The newspaper quoted one congressional aide as saying: "We're all nervous about saying that this was illegal because of our fears about the marketplace. To the extent we want to try to publicly stop this, we're going to be gumming up some important deals."

Another aide told the *Post*, "None of us wants to be blamed for ruining these mergers and creating a new Great Depression."

The newspaper cited legal experts who compared the Democrats' spinelessness in their secret protests over the extra-legal measures by the Treasury Department to similar objections made before the Democratic leadership passed the measure granting the Bush administration unrestricted power to wage a war of aggression against Iraq.

This extraordinary episode has exposed the complete subservience of the Democratic Party to the interests of Wall Street and the willingness of its leadership to submit to an effective dictatorship exercised by finance capital in violation of the law and the US Constitution.



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