

Myth: Plugging overseas corporate tax loopholes will dramatically improve the budget outlook as multinationals pay their "fair" share.

Reality: Dream on. The estimated \$210 billion revenue gain over 10 years—money already included in Obama's budget—represents only six-tenths of 1 percent of the decade's tax revenue of \$32 trillion, as projected by the Congressional Budget Office. Worse, the CBO reckons that Obama's endless deficits over the decade will total a gut-wrenching \$9.3 trillion.

Whether Obama's proposals would create any jobs in the United States is an open question. In highly technical ways, Obama would increase the taxes on the foreign profits of U.S. multinationals by limiting the use of today's deferral and foreign tax credit. Taxing overseas investment more heavily, the theory goes, would favor investment in the United States.

But many experts believe his proposals would actually destroy U.S. jobs. Being more heavily taxed, American multinational firms would have more trouble competing with European and Asian rivals. Some U.S. foreign operations might be sold to tax-advantaged foreign firms. Either way, supporting operations in the United States would suffer. "You lose some of those good management and professional jobs in places like Chicago and New York," says Gary Hufbauer of the Peterson Institute.

Including state taxes, America's top corporate tax rate exceeds 39 percent; among wealthy nations, only Japan's is higher (slightly). However, the effective U.S. tax rate is reduced by preferences—mostly domestic, not foreign—that also make the system complex and expensive. As Hufbauer suggests, Obama would have been better advised to cut the top rate and pay for it by simultaneously ending many preferences. That would lower compliance costs and involve fewer distortions. But this sort of proposal would have been harder to sell. Obama sacrificed substance for grandstanding.

[From the Arizona Republic]

#### THE CHRYSLER POWER GRAB

The proposed end games for General Motors and particularly Chrysler illustrate why government shouldn't have gotten involved in the first place.

It's worthwhile to begin with the broader picture. Americans used to buy about 17 million new cars and trucks a year. Now, we're buying less than 10 million. That, of course, puts considerable stress on manufacturers with weaker products or financial structures.

How many new cars Americans will want to purchase in the future is unknown. But there can be a high degree of confidence in this: however many it is, someone will sell them to us.

Moreover, they are likely to be produced in the United States. A majority of cars sold by foreign manufacturers in the U.S. are actually built here.

So, why should the federal government care who it is that sells us our cars? There are two rationales offered. First, to preserve an "American" auto industry. Second, to preserve "American" jobs.

The proposed Chrysler restructuring gives the lie to both rationales.

Under the Obama administration's proposal, Chrysler would, in essence, be given to Fiat, an Italian company, to operate.

So, how is an Italian car manufacturer operating in Michigan any more "American" than a Japanese manufacturer operating in Kentucky?

And why should the federal government give a market preference—through taxpayer

financing and warrantee guarantees to Italian cars produced by American workers in Michigan over Japanese cars produced by American workers in Kentucky?

The Obama administration's proposed restructuring is more than just unjustified, however. It dangerously undermines the rule of law, as explicated so beneficially by Friedrich Hayek in his classic, "The Road to Serfdom."

The essence of the rule of law, according to Hayek, is that what the government will do is known to all economic actors in advance. That government will not act arbitrarily in specific circumstances to favor some economic actors over others.

Chrysler has \$6.9 billion in secured debt. Under the law, secured lenders have the first claim on the assets of the debtor in the event of non-payment.

The Obama administration is attempting to muscle past this law. Under its proposal, the health care trust of the auto workers' union, an unsecured creditor, would forgive 57 percent of what Chrysler owes it, and receive 55 percent of the company's equity in exchange. The federal government would forgive about a third of what it would loan Chrysler and receive 8 percent of the company's equity. Fiat would pay nothing for its 20 percent initial ownership.

The secured creditors, with the first claim on Chrysler's assets, were asked to forgive 70 percent of what they are owed and receive nothing in equity. When they refused and forced the company into bankruptcy, they were excoriated by Obama—a shameful act by a president who pledged to uphold the law, not make it up as he went along.

The purported GM restructuring is equally lopsided. The union trust would forgive half of what it is owed and receive 39 percent of the company. The government would forgive half of what it is owed and receive 50 percent of the company. The other private lenders, in this case unsecured, would forgive 100 percent of what they are owed and receive just 10 percent of the company.

In his recent press conference, Obama said he had no interest in owning or operating car companies. Until this point, I was willing to accept Obama at his word, while fundamentally disagreeing with his economic policies.

Given his actions, however, it's hard to credit his disclaimer in this instance.

These proposed restructurings are power grabs, pure and simple. The positions of lenders are eviscerated to give control to the union trust and the government. The emergent companies are given market preference through taxpayer financing and government warrantee guarantees. All to serve no true national purpose.

#### CONDUCTING U.S. GOVERNMENT BUSINESS

Mr. KYL. Mr. President, let me commend my colleague from Tennessee. I thought his remarks were right on the spot. When we start looking backward instead of forward, we want to be careful what we ask for because we just might get it, and it might be more than we bargained for.

There have been a lot of mistakes the United States has made, a lot we are not very proud of, and my colleague mentioned a couple of those. There were certainly things in the last Democratic administration for which, had some of the officials there had it to do over again, I am sure they would do over. There were things the Republican administration that succeeded the

Clinton administration undoubtedly disagreed with, but it seems to me that President Bush has acquitted himself very well as a former President, not criticizing the administration he succeeded, and certainly not suggesting those disagreements should take the form of political trials or even criminal trials. It would be very unseemly for that to occur with respect to the Bush administration now that we have a new Obama administration.

But people who served previously in the Clinton administration, obviously those who served in the Congress and knew something about what went on, would certainly have to be prepared to defend themselves under these circumstances as well. It is just an unseemly way, it seems to me—and I agree with my colleague from Tennessee—for the U.S. Government to be conducting its business. So I commend my colleague, Senator ALEXANDER, for his statement.

#### GUANTANAMO BAY

Mr. KYL. Mr. President, on a related matter, the Guantanamo Bay detention facility and what we do about that—as everyone knows, our President fulfilled a campaign promise when he issued an Executive order to close the Guantanamo Bay detention facility.

Both President Bush and Secretary Gates had wanted to close it, but they were confronted with a very difficult problem: what to do with the prisoners at the facility.

President Obama now faces that same dilemma. Campaign rhetoric, it turns out, is one thing; governing is quite another.

There are far more questions than answers about what the administration will do with the prisoners at Guantanamo. Will it hold them? Where will it hold them? Will they be sent to the United States? Will they be kept in military facilities or in Federal prisons here in the United States? How will it guarantee that those who are released do not return to the battlefield?

We don't have answers, of course, to these questions. Yet the administration has asked Congress for \$80 million, some of which, as is quite clearly stated in the language of the request, could be used to transfer these detainees to the United States.

Last week, during the House Appropriations Committee's markup of the President's supplemental appropriations request, the chairman struck the \$80 million, noting that he could not defend the request because the administration does not have a plan for closure. As the Senate Appropriations Committee prepares to mark up the supplemental request this week, I urge the committee to follow the example of the House of Representatives. Majority Leader REID has just informed us that the Senate committee would "fence" the \$80 million, meaning that it would release it only when there is a plan,

but the plan could be almost anything. Nor is there any assurance in the statement that no prisoners could come to the United States until October 1. That is not the kind of assurance that will get the Senate to support this request. As the majority leader said in his classically understated way: "That looks like an issue that could cause a little bit of debate." I am sure he is absolutely correct about that. Surely, we can all agree that the Congress should not approve significant funding requests when we have no idea how the administration will use the funding. Moreover, the stakes are huge. The terrorist population at Guantanamo is dangerous. These are the worst of the worst, some of the most dangerous people in the world.

The 241 terrorists at Guantanamo include 27 members of al-Qaida's leadership, 95 lower level al-Qaida operatives, 9 members of the Taliban's leadership, 12 Taliban fighters, and 92 foreign fighters. Among their ranks are Khalid Shaikh Mohammed, who is the mastermind of the 9/11 attacks and who, in the aftermath of those attacks, was planning a followup to attack a west coast skyscraper.

Another is Ali Abd al-Aziz Ali, who served as a key lieutenant for KSM—Khalid Shaikh Mohammed—during the planning for 9/11, and he, in fact, transferred money to the United States-based operative for that plan.

Ramzi bin al-Shibh helped to organize the 9/11 attacks and he was a lead operative in the post-9/11 plot to hijack aircraft and crash them into Heathrow airport.

There is also a terrorist named Hambali, who helped plan the 2002 Bali bombings that killed more than 200 people and who facilitated the al-Qaida financing for the Jakarta Marriott attack in 2004. Abd al Rahim Al Nashire masterminded the attack on the USS Cole which claimed the lives of 17 U.S. sailors in October of 2000.

The prior administration has stated that 110 of these detainees should never be released because of the danger to the United States.

What about those who are considered safe for release? We have been undergoing a review of the prisoners from the time they have been taken, and occasionally we release some because we think they no longer represent a threat. The Department of Defense stated in January that 61 former Guantanamo detainees whom we had released returned to the battlefield against the United States and allied forces in Afghanistan, Iraq, and elsewhere. This represents in our criminal terms an 11-percent recidivism rate, and who knows how many of the rest of them may also be engaged in acts of terror. One of these recidivists, Said al-Shihri, who was returned to his home in Saudi Arabia after his release from Guantanamo, went to Yemen and he is now the No. 2 in Yemen's al-Qaida branch.

So what are we to do with these people? More than 100 days into the ad-

ministration, we don't know what their plan is. According to press reports, part of the plan may be to allow one group of these detainees, 17 Uighurs from China, to have residence in the United States.

As the Senator from Alabama, Mr. SESSIONS, noted in two letters to the Attorney General, such an action appears to be prohibited under United States law. Senator SESSIONS stated in his letter to Mr. Holder:

Just 4 years ago, Congress enacted into law a prohibition on the admission of foreign terrorists and trained militants into this country. Accordingly, Congress is entitled to know what legal authority, if any, you believe the administration has to admit into the United States Uighurs and/or any other detainee who participated in terrorist-related activities covered by section 1182(a)(3)(B).

Congress obviously must have the answer to this question before it considers funding that could possibly be used to bring these and other terrorists and detainees to the United States.

What of the rest of the terrorists? Will the administration bring them to the United States to stand trial? If so, according to what rules? We have been told that the administration was shutting down the military commissions process set up by Congress, but now it appears that that process may be brought back. Will all of the remaining Guantanamo terrorists be tried in that system or will civilian courts be used? And if civilian courts, which ones?

If you can't imagine these terrorists actually being tried in U.S. civilian courts, you might try to imagine a little harder. The most likely locations of trials are in Manhattan or Alexandria, VA—both very high population areas. The 2006 death penalty trial of Zacarias Moussaoui turned Alexandria into a virtual encampment, with heavily armed agents, rooftop snipers, bomb-sniffing dogs, blocked streets, identification checks, and a fleet of television satellite trucks.

And where will these detainees be held while awaiting trial? Federal prisons, which are already overcrowded, would be overburdened with the obligation of housing terrorist suspects. Zacarias Moussaoui, who spent 23 hours a day inside his 80-square-foot cell, was constantly monitored and never saw other inmates. An entire unit of six cells and a common area was set aside just for him.

If not in Federal prisons, perhaps military prisons. Well, not so fast. Former Deputy Assistant Secretary of Defense for Detainee Affairs noted that extensive work would have to be done on existing military brigades before Guantanamo detainees could be held there:

You can't commingle them with military detainees, so you'd have to set up a separate wing or clear out the facility.

The structures would have to be reinforced so that they wouldn't be vulnerable to terrorist attacks. He concludes by saying:

And you would have to address secondary and tertiary—

in other words, security—

concerns with the town, the county and the State.

The reality of the situation is that there is simply no better place for these terrorists than the state-of-the-art facility at Guantanamo.

This is why the Senate went on record voting against the proposition that these detainees be brought to the United States. In fact, the Senate agreed to the amendment offered by the senior Senator from Kentucky by a vote of 94 to 3. Among the people voting in support of this resolution were the Secretary of State, the Secretary of the Interior, and the Vice President himself while they were Members of this body. So key members of the Obama administration have agreed with the language of the amendment which was that Guantanamo detainees—and I am quoting now—"should not be . . . transferred stateside into facilities in American communities and neighborhoods."

If the administration has a plan, I will listen to it, but with approximately 8 months to go before the President's arbitrary deadline, I see no good answers to the complicated questions of what to do with the world's most dangerous terrorists.

Before the President asks for appropriations to shut down the Guantanamo facility, appropriations which could be spent to bring these terrorists to the United States, the least he could do is to provide Congress with a plan that explains how Americans will be safer having Khalid Shaikh Mohammed and his partners as neighbors.

Mr. President, I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### FEDERAL DEBT

Mr. KYL. Mr. President, we are soon going to be debating a bill that would place limits on the interest rate increases that credit card companies can levy on their debtholders. I look forward to debating the effects this bill will have on American families.

But before we do that, I wish to consider the debt that the Federal Government is accruing—via the budget and stimulus spending—on the Nation's credit card. That is the debt that all American families will be responsible for repaying because, as it turns out, the comparisons between what you owe on your own credit card—the kind of bills you run up on your family credit card—are actually not very different from the debt we are running up on the Federal credit card, except, of course, that the Federal debt is much bigger.