

Buy Now, Save Later

Campaign Contributions & Corporate Taxation

**A Joint Project of the Institute on Taxation & Economic Policy,
Citizens for Tax Justice, and Public Campaign**

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Executive Summary

In the aftermath of the horrific terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, the President and congressional leaders quickly agreed on the outlines of a \$50-75 billion, one-year economic stimulus plan to help those most hurt by the disaster and the economic downturn. After a flurry of corporate lobbying, however, that bipartisan agreement is in shambles.

On a close party-line vote, the House passed a \$212 billion tax-cut bill stuffed with tax breaks for profitable corporate campaign contributors, including repeal of the corporate alternative minimum tax and huge increases in tax write-offs for “depreciation.” Senate Republicans have endorsed a similar measure, as has President Bush. Meanwhile, special interests continue to plead for even more tax breaks, from reinstating the three-martini lunch by making business meals 100 percent tax-deductible to granting special treatment for theme parks.

Although the war on terrorism is new, lobbying for corporate tax breaks is not. This study examines campaign contribution records of top tax avoiding companies — 41 corporations that enjoyed more than \$55 billion in tax breaks between 1996 and 1998, including 23 companies that received tax *rebates* in 1998. This short list of profitable tax-avoiders — essentially, the companies that are the best at working the system to avoid paying taxes — includes many household names, companies such as General Electric, Microsoft, and Walt Disney.

This study also includes five case studies showing how these individual companies and sometimes whole industries have used campaign contributions to help establish, widen, and protect particular tax loopholes. Most Americans may not commonly know these tax loopholes — no ordinary taxpayer can claim tax credits for exports, or for manufacturing goods in Puerto Rico. Case studies include in-depth looks at lobbying by exporters for the Foreign Sales Corporations tax break, Microsoft’s campaign to extend the break to software companies, and computer and pharmaceutical companies’ lobbying to extend tax credits permanently for research.

The picture that emerges is of a profitable corporate America using campaign contributions cynically, to ensure that they pay far less than their fair share in taxes. At a time when all of America is being asked to sacrifice, corporate executives have their hands out, filled with campaign contribution cash as they ask for special breaks and to pay less in taxes.

Major findings of the study include:

- Sixteen profitable corporations, which will receive \$7.4 billion in immediate alternative minimum tax rebates if the “stimulus” bill passed by the House becomes law, are the source of \$45.7 million in campaign contributions to federal campaigns since 1991, including more than half a million dollars to President George W. Bush’s campaign.

■ The short list of top tax avoiders — 41 large profitable companies that got \$55.2 billion in tax breaks between 1996 and 1998, including 23 companies that got tax rebates in 1998 — contributed more than \$150 million to federal candidates and parties between 1991 and 2002.¹ These contributions helped secure tax breaks worth \$55.2 billion from 1996 to 1998. The majority of this cash — 56 percent — was given in the form of “hard money” contributions — contributions from PACs associated with the companies and from business executives and their families subject to federal limits but “bundled” in large amounts from these companies. Forty-four percent was contributed as soft money, unlimited contributions to political parties.

■ After the GOP took over Congress in 1994 — and control of writing tax laws — top tax-avoiding companies sharply increased their contributions to Republican candidates and parties. In the 1992 and 1994 election cycles, the GOP received 54 percent of their contributions, and the Democrats, 45 percent. By the 2000 election cycle, Republican politicians and party committees got more than twice as much campaign cash as Democrats did. Thus, campaign cash followed the power to make laws the companies wanted — not any ideological preference or principle.

■ Members of the Congressional tax-writing committees — the House Ways and Means and Senate Finance Committees — collected \$9.7 million from 1991 through June 2001 from executives, their families, and PACs associated with top tax-avoiding corporations. These lawmakers were all crucial targets for maintaining, expanding, and securing new tax breaks for the companies studied. The top recipients of these contributions among current Senate Finance Committee Members were Sen. Orrin Hatch (R-UT), who received \$355,430, and Sen. John B. Breaux (D-LA), who received \$251,150. On the House Ways & Means Committee, the top recipients were Rep. Charles B. Rangel (D-NY), the ranking minority member, who received \$308,600, Rep. Nancy L. Johnson (R-CT), who received \$244,200, and Rep. Bill Thomas (R-CA), chairman of the committee, who received \$233,000.

■ The “Big Five” accounting firms, which beefed up their tax lobbying practices in the late 1990s, building a reputation for securing tax loopholes for corporate clients from Congress and the Treasury Department, are also major campaign contributors to federal candidates and political parties. Together, Ernst & Young, PricewaterhouseCoopers, Deloitte & Touche, Andersen Worldwide, and KPMG Peat Marwick, gave \$29 million to federal candidates and party committees from 1989 through June 2001. These firms have hired former aides from Congressional tax-writing committees and the Treasury Department whose close ties and political fundraising finesse help them get what their corporate clients want. For example, PricewaterhouseCoopers hired Kenneth Kies, a former chief of staff of the Joint Committee on Taxation, and a significant campaign donor, at a reported \$1 million salary. On Kies’ current “to do” list — lobbying for repeal of the corporate alternative minimum tax (AMT) for his clients, General Motors and IBM.

¹January 1991 through June 2001.

Case studies:

■ Current calls by low-tax corporations, the National Association of Manufacturers and other trade associations to eliminate the corporate alternative minimum tax, designed to prevent profitable corporations from avoiding paying taxes altogether, are repeats of recent history. In 1995, during the same month the House Ways and Means committee members voted to ease the AMT, they received \$65,000 from the industries that were lobbying for tax relief. Altogether, Ways and Means members received \$1.5 million during the 1996 election cycle from the chemical, oil and gas, paper, steel, and automobile industries, which all lobbied to get rid of the AMT. Rep. Phil English (R-PA), who is seeking permanent reversal of the AMT has received nearly \$300,000 from these industries since he was elected in 1994.

■ The oil and gas, coal, auto manufacturing, and electric utility industries contributed \$209 million to political campaigns from 1989 through June 2001. These industries will collect about \$27 billion over ten years in tax breaks if the energy bill passed by the House of Representatives in August 2001 becomes law. For the oil and gas sector, these tax reductions come to an industry that already pays the lowest taxes of any industry in America, an effective income tax rate of just 5.7 percent in 1998.² In contrast, alternative energy — wind, solar, and biomass energy industries — gave \$1.4 million to political campaigns from 1989 through June 2001. The House-passed energy bill gives \$2.9 billion in tax incentives to these non-traditional industries.

■ Boeing Company, General Electric, Monsanto, RJR Nabisco, and a half dozen other companies that benefit the most from the Foreign Sales Corporation (FSC) tax break saved \$2.6 billion between 1991 and 1998. They are lobbying to save the tax break, which has been declared an illegal subsidy by the World Trade Organization. They contributed a total of \$34 million to political campaigns and party committees between 1991 and 2000.

■ Microsoft Corp. lobbied to extend the lucrative tax break on FSCs, which shelters 15 to 30 percent of export profits from taxes, to the software industry. Microsoft Corp.'s month-by-month campaign contributions in 1997 peaked at \$54,100 in July, the same month Congress approved a new law, an 86-word provision tucked into a massive budget reconciliation bill, that extended the FSC tax break to software exporters. Since 1997, Microsoft has saved substantial amounts in taxes through the FSC tax break. Like many corporate campaign donors, Microsoft's contributions influenced more than one issue. The Justice Department's antitrust suit against the company was also a large source of concern during these years.

■ Industries benefitting from a special tax credit for research and experimentation costs have poured \$148 million into political campaigns and parties from 1989 through June 2001. The "R&E" tax credit rewards companies for doing what they're in business to do: innovate. This is equivalent to giving teachers a tax break for grading

²"Bush Energy Bill Passed by House Showers Tax Breaks on Energy Industry," Citizens for Tax Justice, Aug. 17, 2001.

papers or their students one for doing their homework. The pharmaceutical and computer industries are pushing hard for Congress to make the R&E credit permanent, instead of being renewed every several years. One of their major champions, Sen. Orrin Hatch (R-UT), has received more than half a million dollars from these industries between 1995 and 2000. One of the top tax-avoiding companies that has been generous to him is Pfizer. Five days after Hatch offered an amendment in July 1999 in the Senate Finance Committee to make the research and experimentation tax credit permanent, he received a bundle of contributions totaling \$10,000 from a who's who of top Pfizer executives.

■ Pharmaceutical and manufacturing companies doing business in Puerto Rico that rank among the top tax-avoiders contributed \$14.3 million to politicians and parties between 1991 and June 2001. They received quite a return on that investment, saving \$627 million in taxes in 1998 alone thanks to a special tax break, known as Section 936, dating back to the 1940s. Though Congress voted in 1996 to phase out the tax break, boosters of this special tax break are back, in the wake of the terrorist attacks, asking for new provisions to help companies doing business in Puerto Rico.

Introduction

Question: Secretary O'Neill, there was a World Trade Organization ruling on foreign sales corporations that just came out this week. And are you familiar with it? And can you comment on it? And will the Treasury use it as an opportunity to recommend, say, the total overhaul of Subpart F or even the entire corporate income tax structure?

*Treasury Secretary Paul O'Neill: All those 55 million people out there who are going to be so glad to get their withholding rates changed and the 90 million who are going to get checks haven't the foggiest notion what you're talking about. (Laughter.) And I can't answer your question in less than 40 minutes, so I'm not going to. (Laughter.)*³

When Treasury Secretary Paul O'Neill responded to a reporter's questions about the taxation of multinational corporations last June, he was speaking in a different world. The World Trade Center towers still stood, the Pentagon was whole, no plane had crashed into the Pennsylvania countryside, and Capitol Hill was free of anthrax spores. Yet, as time has passed since the horrific terrorist attacks on September 11, 2001, the tax code is back in the news, now as part of White House and congressional Republican efforts to use our current economic troubles as the rationale to enact huge new tax breaks for corporations and the wealthy.

With the nation under tremendous pressure to remain unified and strong, combined with a need to fortify the economy, there will be a real danger that complex tax legislation will slip through Congress unexamined. Government officials and politicians are taking the same tack that O'Neill did last June, glossing over the details as too intricate for the "people out there" to have the "foggiest notion about," so complicated that they would take 40 minutes (or more!) to explain. Support the latest tax package, the American people are being told, because it is good for our country. "Time is of the essence," President George Bush has exhorted Congress, urging them to get him a bill to sign by the end of November.

But a close examination of the tax proposals reveals that special interests are seeking the reincarnation or expansion of special tax breaks backed by corporate America for decades. And they're backing their arguments for special tax relief with generous campaign donations.

The chemical, oil and gas, paper, steel, and auto industries have long lobbied for repeal of the corporate alternative minimum tax (AMT), enacted in 1986 to ensure that profitable corporations cannot take advantage of so many loopholes that they cut their federal income taxes to little or nothing. Other ideas floating around in Washington include the call by the National Association of Manufacturers (NAM), the

³Transcript, News Conference with Senate Republican Leaders and Treasury Secretary Paul O'Neill, RE: Tax Rebate Participants, Federal News Service, June 29, 2001.

nation's largest industrial trade association, to lower the corporate income tax rate from 35 to 30 percent and to double current law's single biggest loophole, writing off equipment far faster than it actually wears out; the restaurant industry's push for a return to the "three-martini" lunch by making business meals fully deductible; pleas to reestablish special tax breaks for companies doing business in Puerto Rico; and appeals from the steel, life insurance, equipment manufacturers and theme park industries, among others, for new tax loopholes.

Washington is listening. Not only is President George W. Bush now backing repeal of the AMT, which he had not included in his tax package earlier this year, but the tax-cut bill passed by the House on October 24, 2001 also includes both a repeal and a *refund* to companies for all such taxes they have ever paid. Bush and congressional Republicans now want both more upper-income individual tax cuts and an array of additional tax breaks for corporate America, which in the House version would cost \$146 billion over the next three years (and who knows how much thereafter).

The new war on terrorism has changed priorities in Washington, and the ailing economy is a serious concern. Many of our elected officials, however, seem more interested in serving the interests of their campaign contributors than stimulating the economy. The sixteen large, profitable companies that will receive a total of \$7.4 billion in immediate AMT rebates under the House bill happen to be the source of

Campaign Contributions by Top Beneficiaries of Corporate AMT Repeal, 1992-2002 Election Cycles*				
Company	Democrats	Republicans	Total	AMT Rebates Under House Tax Bill
ChevronTexaco Corp	\$ 1,828,877	\$ 5,146,425	\$ 6,984,355	\$ 572,000,000
General Electric	2,783,517	3,406,784	6,213,841	671,000,000
Enron Corp	1,467,057	4,188,736	5,691,893	254,000,000
American Airlines	2,197,990	2,408,807	4,616,047	184,000,000
General Motors	1,610,520	2,931,931	4,576,723	833,000,000
Ford Motor Co	1,066,989	2,345,314	3,439,505	1,000,000,000
DaimlerChrysler	873,905	1,830,411	2,990,846	600,000,000
United Airlines	1,410,743	1,436,656	2,864,588	371,000,000
Texas Utilities Co	626,770	1,176,449	1,803,219	608,000,000
Phillips Petroleum	260,616	1,136,038	1,398,541	241,000,000
Kmart Corp	84,350	1,221,959	1,430,009	102,000,000
CMS Energy Corp	484,340	693,998	1,178,338	136,000,000
Westvaco Corp	117,750	822,375	942,625	112,000,000
IBM Corp	452,259	399,027	909,429	1,424,000,000
IMC Global Inc	233,500	312,281	546,781	155,000,000
Comdisco Inc	23,350	72,850	96,200	144,000,000
TOTALS	\$ 15,522,533	\$ 29,530,041	\$ 45,682,940	\$ 7,407,000,000

*1991 - June 2001. Includes PAC, Individual (\$200+) and Soft Money Contributions.

\$45.7 million in campaign contributions for federal campaigns since 1991. President George W. Bush collected \$505,000 from these companies, which include IBM, General Electric, and General Motors, for his 2000 campaign.

This new tax relief, if it becomes law, will flow to companies that already pay very little in federal income taxes. And it will be on top of the wide variety of tax breaks already available to corporate America — tax breaks referred to with short-hand technical names like “foreign sales corporations,” “Section 936,” “R&E tax credit.” In fact, the Institute on Taxation and Economic Policy’s October 2000 study of 250 large, profitable companies found that they saved \$98 billion between 1996 and 1998 from special tax breaks.

More than half of that \$98 billion went to just 41 companies, who averaged more than a billion dollars each in tax breaks. Twenty-three companies qualified for so many tax breaks that they actually got tax *rebates* in 1998. This short list of large tax avoiders — companies with household names, such as General Electric, Ford Motor Company, AT&T, Merck & Co, and Microsoft — together saved a total of \$55.2 billion in taxes over the three-year period.

The documentation of the tax breaks enjoyed by large corporations begs an obvious question. How is it that these companies manage to claim such lucrative tax breaks year after year, tax breaks that are not available to ordinary Americans?

This study shows that this country’s major tax-avoiders strategically deploy campaign contributions to maintain, expand, and create new tax loopholes for themselves. Overall, the top tax avoiding companies contributed more than \$150.2 million from 1991 through June 2001 to federal candidates and parties. The \$55 billion they saved over three years alone is quite a return on that investment.

Of course it’s not just the largest tax-avoiding companies that supply campaign contributions to secure tax advantages. Often whole industries that benefit from a particular tax break give campaign contributions and reap the resulting rewards. In this study, we also provide a half dozen case studies, some about individual companies, others about whole industries, that concentrate on a particular tax battle and demonstrate how they deploy campaign contributions as a crucial part of their lobbying strategy.

We reveal how even when a company is reported to have “lost” on a tax issue — such as when Congress in 1996 cut back the tax breaks manufacturing companies enjoyed in Puerto Rico — their campaign clout ensures they never really lose. We explore how whole industries often band together in mysteriously named coalitions that find it easy to get their way on Capitol Hill. We describe how affected industries have plied Members of Congress and the Administration with campaign money to let them get around the alternative minimum tax (AMT), which was designed to ensure that large, profitable corporations pay at least some reasonable amount in income taxes. We describe how big tax avoiding companies work the political system, hiring high-priced lobbyists with close connections to the Members of Congress who write our nation’s tax laws.

Imagine what the U.S. tax code might look like if Members of Congress received \$0 from these special interests. Would there be as many corporate tax loopholes that cost the U.S. Treasury billions of dollars a year? What sort of money would be available for other projects? To put this in perspective, think of what else that \$55 billion that the top tax avoiding companies avoided paying in taxes could buy. It could pay the cost of hiring 960,000 teachers, or fire fighters, or policemen, at the annual salary of \$50,000 a year, or pay the annual health insurance costs of millions of people.

In this time of crisis, it is paramount that government makes decisions that are good for all the American people, based on sound judgment and free of bias. The terrorists have given all of us a new appreciation of the preciousness of our democracy. The public deserves to see our democracy in action, rather than seeing our national emergency co-opted by a small cadre of moneyed interests that fund political campaigns.

Less Than Zero

Ordinary Americans who feel the pinch every April 15 might be astonished that so many major, profitable corporations pay very little in federal income taxes, and that some actually get tax *rebates*. Since the early 1980s, Citizens for Tax Justice (CTJ) and the Institute on Taxation and Economic Policy (ITEP) have produced studies illustrating how little corporate America pays into the U.S. Treasury.

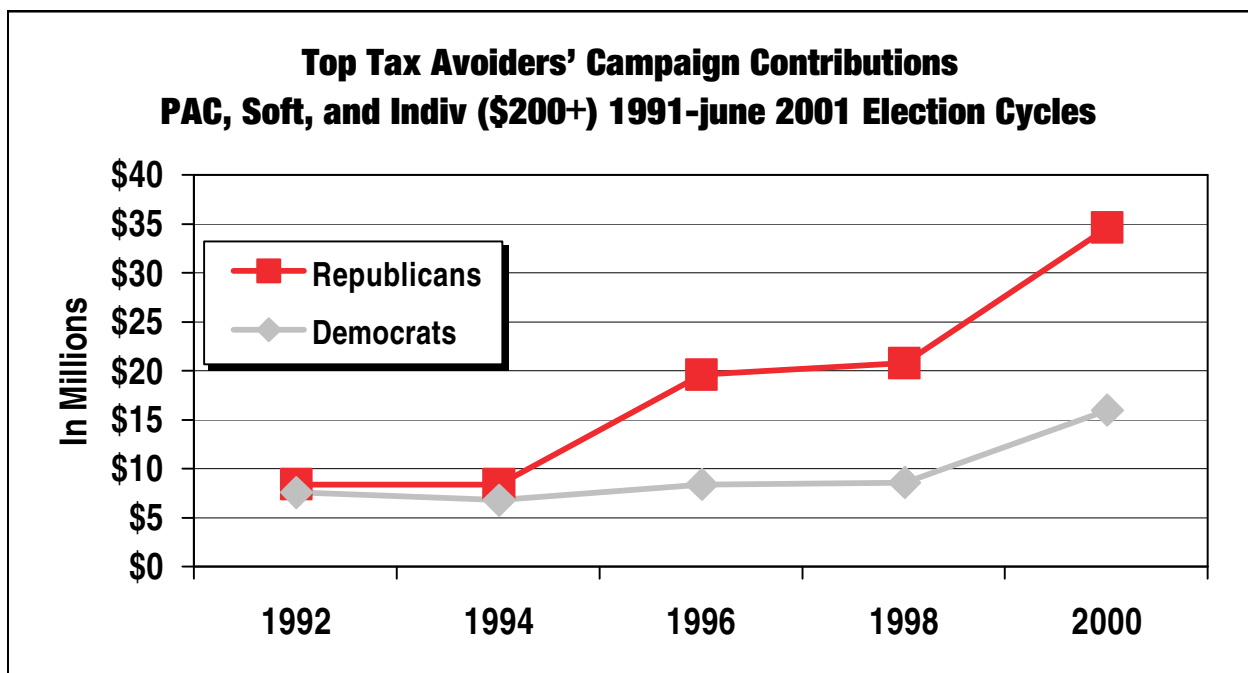
In October of 2000, ITEP released *Corporate Income Taxes in the 1990s*. The report examined the tax-paying habits of 250 major corporations, which together took advantage of \$98 billion in tax-saving loopholes over the three years. Just 41 companies got the lion's share of those tax breaks, a total of \$55.2 billion, and 23 of these companies actually got tax rebates in 1998.

A close look at the campaign contributions by these 41 profitable, tax-avoiding companies shows that they are also major campaign donors. Altogether, they are the source of more than \$150 million in contributions to candidates and party committees between 1991 and June 2001. This campaign money came in "hard money" contributions from corporate executives and their families, from political action committees (PACs) associated with the companies, and in soft money. Sixty percent of the campaign money flowed in the form of "hard money" contributions, and 40 percent in unlimited soft money contributions to political parties.

A dozen of these top tax avoiders make the top contributors list for the 2000 elections. These companies are AT&T, Bristol-Myers Squibb, J.P. Morgan Chase & Co., Enron Corp, Exxon Mobil Corp., General Electric, Microsoft Corp., Pfizer Inc.,

Philip Morris, SBC Communications, Walt Disney Co., and WorldCom Inc.⁴ Two of these companies, Philip Morris and AT&T, have given more than \$10 million to political campaigns since 1991.

These companies' executives and political action committees give this campaign cash for practical, not ideological reasons. This is obvious when looking at the pattern of giving to the Democrats versus the Republicans over time. After the GOP took over Congress in 1994 — winning the power to write and control the tax laws — tax-avoiding companies sharply increased their contributions to Republican candidates and parties. In the 1992 and 1994 election cycles, the GOP received 54 percent of the contributions, and the Democrats, 45 percent. By the 2000 election cycle, Republican politicians and party committees got more than twice as much campaign cash as Democrats did.



What does this money buy? Many Americans are familiar with tax breaks from filling out their own tax returns. You get a break on your taxes if you have a home loan, or if you have certain retirement investments, or in a few other specific circumstances. But the idea of getting so many breaks that your taxes are reduced to zero, or, even more extreme, that you pay *less* than zero in taxes, is unfathomable to most ordinary taxpayers. Yet the tax breaks available to corporate America are so numerous and lucrative that dozens of the most profitable corporations get outright refunds. The three companies that have given more than \$10 million in political contributions — Philip Morris, AT&T, and Verizon Communications — got more than \$8 billion in tax breaks from 1996 through 1998. Overall, the 41 major tax-avoiding companies identified in the ITEP study enjoyed \$55.2 billion in tax breaks over those three years.

⁴Center for Responsive Politics, www.opensecrets.org/2000elect/storysofar/topcontribs.asp.

Corporations lobby the government constantly for “tax incentives” that pay them to do what they would have done anyway. For example, oil companies want tax breaks for drilling for oil. Companies in businesses that need a lot of capital equipment want subsidies for buying equipment. Companies dependent on research want subsidies for research. Companies with international operations want subsidies for operating internationally. And so forth. And all too often, they get those breaks written into law, not because they’re good public policy, but because of their campaign contributions and lobbying clout.

The companies in the table on the next page get their tax breaks through a smorgasbord of special tax provisions, from “depreciation” write-offs for depreciation that hasn’t actually occurred, to tax breaks for pharmaceutical and high-tech companies to develop drugs and computers, to subsidies for exports and for providing stock options to employees. When profitable, corporate America gets these breaks, the rest of us have to pay for them. Ordinary taxpayers must either pay higher taxes to make up for what corporate America does not pay or get fewer government services. Federal programs providing for domestic security, education, health care, unemployment benefits, environmental protection, and other important public services may be short-changed. In addition, tax subsidies create an uneven playing field among businesses. Those picked as “winners” by the government, via subsidies, are favored over others. That’s not the type of government policy that’s good for a free market economy.

The table on the next page details the campaign contributions from the top tax avoiders identified by ITEP. It lists the companies that paid the least in federal income taxes between 1996 and 1998, as well as companies that received tax rebates in 1998.

These companies’ enormous campaign contributions, coupled with their sophisticated tax lobbying described in the next section and in the case studies, have created a tax code where they profit enormously to the detriment of other, less influential, taxpayers.

Campaign Contributions by Top Tax Avoiders* — 1992–2002 Election Cycles**				
Rank	Company	Campaign Contributions***	Tax Breaks, 1996-1998	1998 Tax Rebates
1	Philip Morris	\$ 15,308,299	\$ 1,475,000,000	
2	AT&T	13,528,892	2,550,000,000	
3	Verizon Communications	10,181,392	4,023,000,000	
4	SBC Communications	8,104,487	1,242,000,000	
5	Microsoft Corp.	7,299,701	2,052,000,000	
6	ChevronTexaco Corp.	6,984,355	2,474,000,000	-254,500,000
7	J.P. Morgan Chase & Co.****	6,764,038	1,917,000,000	-62,300,000
8	Walt Disney Co.	6,489,362	1,177,000,000	
9	WorldCom Inc.	6,224,967	1,313,000,000	-112,600,000
10	General Electric	6,213,841	6,935,000,000	
11	Pfizer Inc.	5,748,614	1,074,000,000	-197,200,000
12	Enron Corp.	5,691,893	284,000,000	-12,500,000
13	ExxonMobil Corp.	5,625,761	2,312,000,000	
14	CSX Corp.	4,825,072	562,000,000	-102,100,000
15	Bristol-Myers Squibb	4,763,333	1,603,000,000	
16	General Motors	4,576,723	1,163,000,000	-19,000,000
17	Northrop Grumman	3,639,016	408,000,000	-1,000,000
18	PepsiCo	3,456,476	1,453,000,000	-302,000,000
19	Ford Motor Co.	3,439,505	3,622,000,000	
20	Burlington Northern Santa Fe Corp.	3,158,085	1,394,000,000	
21	Merck & Co.	2,164,907	2,222,000,000	
22	First Union Corp.	2,157,550	2,847,000,000	
23	American Home Products	2,129,449	1,401,000,000	
24	El Paso Energy Corp	1,578,132	322,000,000	-3,000,000
25	Johnson & Johnson	1,427,490	1,324,000,000	
26	Phillips Petroleum	1,398,541	653,000,000	-1,100,000
27	Weyerhaeuser Co.	1,202,543	419,000,000	-9,500,000
28	DuPont Co.	1,192,942	1,515,000,000	
29	IBM Corp.	909,429	2,182,000,000	
30	Intel Corp.	869,991	1,288,000,000	
31	Goodyear Tire & Rubber	672,999	295,000,000	-33,200,000
32	Ryder System Inc.	577,898	201,000,000	-16,400,000
33	Tosco Corp.	436,616	200,000,000	-46,700,000
34	Eaton Corp.	405,585	331,000,000	-18,000,000
35	Lyondell Chemical	338,650	162,000,000	-44,000,000
36	McKesson Corp.	331,550	156,000,000	-1,000,000
37	Saks Inc.	105,425	118,000,000	-7,900,000
38	Caremark RX Inc.	84,800	68,000,000	-400,000
39	Colgate-Palmolive Co.	63,650	286,000,000	-19,600,000
40	Owens & Minor Inc.	29,850	26,000,000	-7,900,000
41	WestPoint Stevens	11,100	121,000,000	-1,200,000
TOTAL		\$ 150,112,909	\$ 55,170,000,000	\$ -1,273,100,000

* Totals include subsidiaries. In cases of mergers, companies are shown under new names.

**1991 to June 2001.

****1998 rebate reflects J.P. Morgan only.

***Includes PAC, individual (\$200+) and soft money contributions.

The Lobbying Game

The U.S. Tax Code and its regulations are nearly 10,000 pages long.⁵ Some politicians like to use these numbers as they rail against the tax system and call for lower taxes. The irony is that most of those pages aren't imposing taxes — they're trimming them. But the beneficiaries of the pages and pages of tax breaks aren't the ordinary taxpayers the politicians are trying to appeal to in their angry speeches. Most of those pages help another audience — one that is more important to many politicians than the taxpaying voters back home. That audience is the politicians' campaign donors.

Imagine if you could afford to give millions of dollars in campaign contributions to the members of Congress who write the tax laws. Then imagine you also hire the best and brightest and the most well connected lawyers, accountants and lobbyists, who are often campaign contributors and fundraisers themselves. These professionals help you not just by finding loopholes in the current tax code, but also in lobbying the government to create new ones, designed to fit you like a custom-made Armani suit.

Large corporations employ this dual strategy to lower their tax bills. They contribute cash to politicians and party committees, and they also hire an army of lobbyists who build on the good will created by those contributions, and their own personal connections and fundraising, to secure enormous tax breaks.

It's an everybody-wins-but-the-little-guy system. Politicians get their campaign money; corporations get their tax breaks; and many people who start their careers working for the tax-writing committees on Capitol Hill, or in the warrens of the U.S. Treasury, find that they can earn huge incomes when they leave government service. The ordinary taxpayer, however, must deal with the loophole-ridden tax system all these Washington professionals have created — and suffer the consequences of higher personal taxes or government budgets too small to fund adequately public health, safety, environmental and consumer programs.

Consider the example of Kenneth Kies, a lobbyist for PricewaterhouseCoopers, formerly the chief of staff of the Joint Committee on Taxation. Kies and his wife, Kathleen, a lobbyist for another firm, Collier, Shannon, Rill & Scott, have personally contributed nearly \$100,000 since 1989 to federal candidates and parties. Kies also helps raise campaign contributions from others. Amounts are difficult to track, since this sort of activity is not reported to the Federal Election Commission. However, in February 2001, Kies was one of the lobbyists tapped to help Rep. Bill Thomas (R-CA), the new chairman of the House Ways and Means Committee, raise \$6 million for the House Republicans, according to a report in the *Wall Street Journal*.⁶ He also helped

⁵"Taking a Tough Stand Against Microsoft," *The American Lawyer*, Dec. 1997.

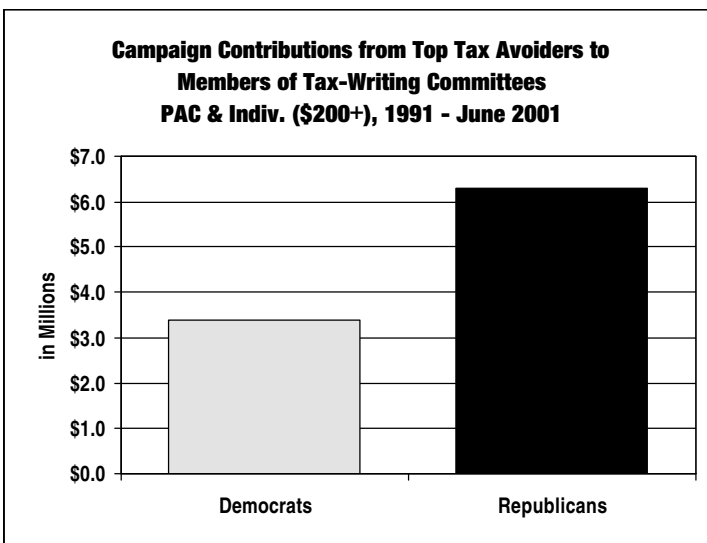
⁶"House GOP Fundraising Draws Criticism from Campaign Finance Reform Advocates," *The Bulletin's Frontrunner*, Feb. 16, 2001.

Congressional Taxing Power

It's right there in the U.S. Constitution, Article 1, Section 7: "All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills." In the House, the Ways and Means Committee has the responsibility for raising revenue for the federal government's operations. The committee does this by proposing laws governing individual and corporate income taxes, excise taxes, gift taxes, and other miscellaneous taxes. This makes the Committee the perfect training ground for a would-be corporate tax lobbyist, whether as a former Member of Congress or a staffer. It also means that the committee's 41 members are the prime targets of corporations using campaign contributions to secure special tax treatment.

Although the House is where tax bills start, the 21-member Senate Finance Committee has jurisdiction over taxes when bills come to the Senate (where they are often amended). Finally, the 10-member Joint Committee on Taxation is made up of members of both the House and Senate; its job is to provide information to the Ways and Means and Senate Finance Committee on the effect of taxes and proposed changes thereto. Five former chiefs of staff of the Joint Committee on Taxation work at big accounting/lobbying firms, three at Price-waterhouseCoopers and two at KPMG.

Members of the Congressional tax-writing committees collected \$9.7 million from 1991 to June 2001 from executives, their families, and PACs associated with top tax-avoiding corporations.



Top 20 Recipients of Tax-Avoiding Companies' Campaign Contributions on House Ways & Means Committee in 107th Congress*

Rank	Member	Amount
1	Charles B. Rangel (D-NY)	\$ 308,590
2	Nancy L. Johnson (R-Conn)	244,191
3	Bill Thomas (R-Calif)	232,900
4	Jennifer Dunn (R-Wash)	227,077
5	E. Clay Shaw Jr (R-Fla)	212,821
6	Robert T. Matsui (D-Calif)	199,506
7	Sander M. Levin (D-Mich)	191,300
8	Phillip M. Crane (R-Ill)	175,184
9	Phil English (R-Pa)	169,287
10	Amo Houghton (R-NY)	149,700
11	J. D. Hayworth (R-Ariz)	115,674
12	Jim McCreery (R-La)	115,530
13	Wally Herger (R-Calif)	111,527
14	Sam Johnson (R-Texas)	110,673
15	Dave Camp (R-Mich)	109,842
16	Jim Nussle (R-Iowa)	109,810
17	Jerry Weller (R-Ill)	91,010
18	Kenny Hulshof (R-Mo)	87,118
19	Benjamin L. Cardin (D-Md)	85,050
20	Wes Watkins (R-Okla)	78,998

Top 10 Recipients of Tax-Avoiding Companies' Campaign Contributions on Senate Finance Committee in 107th Congress*

Rank	Senator	Amount
1	Orrin G. Hatch (R-Utah)	\$ 355,429
2	John B. Breaux (D-La)	251,150
3	Charles E. Grassley (R-Iowa)	216,699
4	Max Baucus (D-Mont)	157,945
5	Kent Conrad (D-ND)	146,024
6	Trent Lott (R-Miss)	140,300
7	Don Nickles (R-Okla)	134,306
8	Phil Gramm (R-Texas)	117,781
9	Bob Graham (D-Fla)	106,764
10	John D. Rockefeller IV (D-WVa)	82,345

*PAC & Indiv (\$200+), includes contributions for period while lawmaker is a member of the House Ways and Means Committee or Senate Finance Committee.

raise funds for a GOP fundraiser in June 2000 that netted \$9 million, according to the Associated Press.⁷

Kies's value to his clients also comes from his connections. He has gone through the revolving door between government service and private lobbying twice in the past 15 years. Between 1981 and 1986, he served on the Republican staff of the House Ways and Means Committee, rising to position of chief minority tax counsel and working on several key Reagan-era tax bills before leaving for the Washington, D.C. office of Baker & Hostetler, where he earned \$600,000 a year.⁸

Then came the elections of 1994, and the Republican takeover of Congress. The morning after the elections, on November 2, 1994, at 8 a.m., Kies got a phone call from Rep. Bill Archer (R-TX). Archer wanted Kies to become chief of staff of the Joint Committee on Taxation. The pay: \$130,000 annually. Kies jumped at the chance. "This is an historic opportunity," he told the trade publication, the *American Lawyer*. "It's clearly the best tax job in government."⁹

Mr. Kies took a big pay cut to reenter government service, but his decision paid off very well. Four years later, when he left Capitol Hill again, there was a bidding war for Kies, who was "recruited by lobby shops the way college basketball coaches go after a 7-footer with a jump shot," as *Legal Times* put it.¹⁰ The accounting firm PricewaterhouseCoopers won the contest, landing Kies at a reported \$1 million salary.

At the time, PricewaterhouseCoopers was beefing up its lobbying practice, part of a trend at the Big Five accounting firms. The idea was to move from mostly simply helping corporate clients reduce their taxes under existing law to a new focus on changing the laws to benefit their clients. PricewaterhouseCoopers quickly built up its tax lobbying practice, called Washington National Tax Services. The firm collected \$17.3 million in lobbying fees from 1998 through 1999, according to federal lobbying disclosure reports — and that's likely to be a vast understatement, given the narrow definition of lobbying under the disclosure law.

PricewaterhouseCoopers uses its staff's revolving door credentials to sell itself to prospective clients. "[Washington National Tax Services] offers unparalleled tax technical, policy, and planning expertise to major corporations," states the company's web page. "Mark McConaghy, Bob Shapiro, and Ken Kies — all former Chiefs of Staff of the Congressional Joint Committee on Taxation — lead this 650-person organization. . . . WNTS professionals come from a variety of backgrounds, including former government officials (e.g., from the Treasury Department, the Internal

⁷David Ho, "GOP Dinner Raises \$9 million for 2000 Election," The Associated Press State & Local Wire, June 24, 1999.

⁸"Taking a Tough Stand Against Microsoft," *The American Lawyer*, December 1997.

⁹*Id.*

¹⁰Ron Eckstein, "Big 5 Firms Expanding Their Tax Lobbying Toehold," *Legal Times*, June 28, 1999, p. 1.

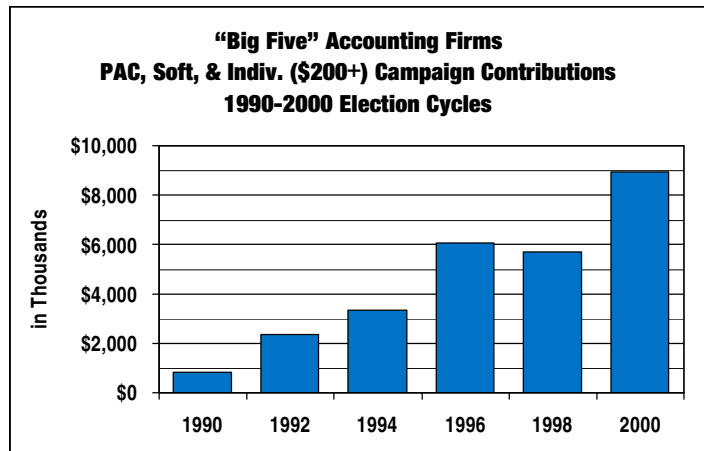
Revenue Service, and the Congressional tax staffs)...”¹¹ Other Big Five firms also expanded their lobbying staffs in the late 1990s. Ernst & Young hired Phillip Moseley, who had worked for 23 years for House Ways and Means member Bill Archer (R-Texas), the last two as chief of staff of the House Ways and Means Committee after Archer became Chairman.¹² KPMG hired Hank Guttman who had served as chief of staff for the Joint Tax Committee between 1991 and 1993, when it was under Democratic control.¹³ KPMG also hired David Brockway, who had previously worked under PricewaterhouseCoopers’ McConaghy at the Joint Tax Committee, and later became chief of staff, playing a key role in the loophole-closing Tax Reform Act of 1986 before he left for private practice in the late 1980s.¹⁴

The accounting firms’ gear-up for lobbying didn’t just include buying connections and experience — they also increased their campaign contributions enormously. Together, the Big Five accounting firms have poured \$29 million into the coffers of politicians and party committees since 1989. The \$8.9 million they contributed in the 2000 election cycle is more than ten times the \$870,000 they gave in the 1990 elections.

The accounting firms are far from the only entities in Washington to offer high-priced, well-connected lobbyists for corporations seeking special tax treatment. Many law firms and other lobbying shops also have thriving and powerful tax-lobbying services. Nevertheless, the decision to get in the business of changing tax laws, not just advising corporate clients on how to deal with the ones that are already on the books, marks a new, cynical era in tax policy.

“Big Five” Accounting Firms PAC, Soft & Indiv (\$200+) Contributions 1990-2002 Election Cycles*	
Firm	Contributions
Ernst & Young	\$ 8,161,863
PricewaterhouseCoopers	6,622,271
Deloitte & Touche	5,965,826
Andersen Worldwide	4,812,396
KPMG LLP	3,390,924
Total	\$ 28,953,280

*PAC, soft & individual (\$200+), 6/89–6/01.



¹¹PricewaterhouseCoopers, www.pwcglobal.com/extweb/service.nsf/docid/B48BA1658E11A6C38525691B006327F7.

¹²“Big 5 Firms Expanding Their Tax Lobbying Toehold,” *Legal Times*.

¹³*Id.*

¹⁴*Id.*

Hard Money Bundles: How to Skirt Campaign Contribution Limits

Federal campaign finance laws limit “hard money” contributions to candidates from individuals to \$2,000 per election — \$1,000 apiece for the primary and general. There is a simple way around this rule, however — get everybody in the company to kick in a contribution. Often executives will also give money to Political Action Committees (PAC) connected with the company which then contribute to candidates. When dozens of executives and their family members all give a contribution on the same date to a member of the House Ways and Means Committee or Senate Finance Committee, then it is not a huge leap of logic to conclude that they are contributing for business reasons — particularly if they do not live in the Member of Congress’s district.

Below are some examples of large bundles of hard money contributions given directly by executives (and their families) for top tax-avoiding companies to members of the House Ways and Means and Senate Finance Committees in the 2000 election cycle:

- On February 25, 2000, 22 Chase Manhattan executives, none of them from Texas, gave a total of \$14,750 to Senator Phil Gramm (R-TX), a member of the Senate Finance Committee and also Senate Banking Committee Chairman.
- On July 26, 1999, 10 Pfizer executives and their families gave Sen. Orrin Hatch (R-UT), a member of the Senate Finance Committee, \$1,000 apiece. None of them were from Utah. Hatch has been a champion of the pharmaceutical industry, pushing to preserve special tax breaks for pharmaceutical companies operating in Puerto Rico and for extension of the research and experimentation tax credit.
- On August 8, 2000, one executive from Philip Morris and 13 from Miller Brewing, a subsidiary, gave a total of \$4,250 to Rep. Gerald Kleczka (D-WI), a member of the House Ways and Means Committee. Kleczka is a cosponsor of a bill in the 107th Congress, H.R. 1305, to slash taxes on beer.
- On August 30, 1999, 17 Philip Morris executives gave a total of \$11,000 to Rep. Charles Rangel (D-NY), the senior Democrat on the House Ways and Means Committee. The following spring, he introduced a bill, H.R. 3917, which would exclude from penalty tobacco bought duty free.
- On April 18, 2000 15 Philip Morris executives gave a total of \$9,500 to Sen. Charles Robb (R-VA). None of them were from Virginia, although Virginia is a tobacco-growing state.
- On December 22, 1999, 11 DuPont executives gave a total of \$9,750 to Sen. William Roth (R-DE), then chairman of the Senate Finance Committee. Dupont is based in Delaware.

Case Studies

Part of the edge gained by corporations having “Big Five” accounting firms on their side is the ability to play a highly technical game that can bewilder non-experts — cloaking what’s really going on and why. Corporate tax loopholes tend to be extremely technical. The following five case studies show how corporate America has been successful in using targeted campaign contributions to take advantage of these complexities, assuming America will be too bored to pay attention not just to the type of breaks they are getting, but how they lobby for them in Congress. In some cases, corporations from the top tax-avoiders list are profiled; in other case examples, we show how whole industries ply campaign money to get their way from politicians.

Corporate Alternative Minimum Tax: Corporate America Doesn’t Want to Pay

In late October of this year, the House passed a so-called economic stimulus bill that includes repeal of the corporate alternative minimum tax and an immediate rebate of all AMT payments made by corporations over the past decade. Tax lobbyists such as Ken Kies (see: “The Lobbying Game”), who represents General Motors and IBM Corp., are pushing hard for AMT repeal. But repeal of the AMT is not some new idea for a new world, but rather a warmed-over proposal dating back more than a decade (see Introduction).

Congress established the AMT in the Tax Reform Act of 1986. The 1986 law required companies to do their taxes two ways. First, companies had to calculate their taxes according to regular rules; second, they also had to compute it under AMT rules, which disallowed some loopholes, but applied lower tax rates. Whichever tax — the regular or the alternative — yielded the most taxes was the one that the company had to pay.

Ever since the AMT was instituted, industries affected the most have been lobbying hard to get rid of it. These industries — notably the chemical, oil and gas, paper, steel, and auto industries — are formidable campaign contributors, giving \$274 million to federal candidates and parties between 1989 and June 2001, three-fourths of that to Republicans.

In 1995, after the Republican takeover of Congress, industry saw its chance in the GOP’s “Contract With America.” A coalition organized by the National Association of Manufacturers (NAM), including such trade associations as the American Petroleum Institute, the Chemical Manufacturers Association, and American Iron and Steel Institute, put pressure on Members of Congress, urging rollback of the AMT.

On March 7, 1995, Rep. Phil English (R-PA), one of the activist freshman GOP class elected in 1994, introduced a bill to repeal the AMT. He sent around a “Dear

Colleague” letter signed by 11 other members of the Ways and Means Committee.¹⁵ According to the *National Journal*, the NAM coalition lobbied hard for the signatures on the letter, sending home-state corporate executives to visit committee members and their staffs.¹⁶ Five days later, on March 13, House Ways and Means Committee Chairman Archer announced he was adding AMT repeal to the tax legislation that implemented the Contract With America.

Overall, the chemical, oil and gas, paper, steel, and automobile companies poured \$1.5 million into contributions to members of the House Ways and Means Committee during the 1996 election cycle, \$65,000 alone during the month of March 1995. The version that passed Congress (but was vetoed by President Clinton) was narrower than outright AMT repeal, easing rules on depreciation write-offs for companies subject to AMT — but it was a major victory for anti-AMT forces nevertheless.

The lobbying continued. In August 1997, Congress passed a major easing of the AMT rules, which President Clinton signed.

In a newsletter published by the American Iron and Steel Institute (AISI), a trade association representing the steel industry, vice president Bruce Steiner described how participation in the NAM coalition, which reached beyond narrow industry lines, was key to the 1997 congressional success. “Twenty years ago, separate companies always looked at trade associations as its coalition. . . . It’s only been in the last 8-10 years that there’s been a tendency for multiple industries to come together and form coalitions. There’s been a recognition that there are a lot of issues that have broad business interests not just specific to steel, mining and paper.”¹⁷

The 1997 corporate victory, however, has not stood in the way of continued appeals for complete AMT repeal. Rep. English has become a dependable champion of corporate tax avoidance: in every session of Congress since he was elected, he has introduced a bill to repeal the AMT completely. English has received nearly \$300,000 from the chemical, oil and gas, paper, steel, and automotive industries since he was elected.

Energy Plan: Nearly \$27 Billion in Tax Breaks for the Oil and Gas, Coal, Auto and Electric Utility Industries

The oil and gas, coal, auto manufacturing, and electric utility industries contributed \$209 million to political campaigns between 1989 and June 2001. These industries will collect about \$26.7 billion over ten years in tax breaks if the energy bill passed by the House of Representatives in August 2001 becomes law.

¹⁵Peter H. Stone, “Precious Gem,” *National Journal*, vol. 27, no. 16, p. 981, April 22, 1995.

¹⁶*Id.*

¹⁷Tom Bagsarian, “Steel’s strategies on the Hill,” *Iron Age New Steel*, vol. 15, no. 2, pp. 46-47, Feb. 1999.

Overall, the Bush campaign collected \$2.5 million from the oil and gas, coal, auto manufacturing, and electric utilities industries.

For oil and gas companies, these tax treats are targeted to an industry that already enjoys the lowest taxes of any industry in America, paying an effective income tax rate of just 5.7 percent in 1998. The dozen energy companies in ITEP's study, including Enron Corp., ExxonMobil Corp., ChevronTexaco Corp., El Paso Energy Corp., and Phillips Petroleum, avoided \$7.5 billion in taxes between 1996 and 1998 while contributing more than \$21 million to federal candidates and parties between 1991 and June 2001.

Alternative energy — companies that make electricity from wind, solar and biomass — gave \$1.4 million to federal candidates and parties between 1991 and June 2001. The House-passed energy bill gives them \$2.9 billion in tax breaks.

The tale of how energy interests are getting their way with Congress and the administration this year is one of intimate connections at the highest levels. Both President George W. Bush and Vice President Dick Cheney worked in the oil industry themselves, and many of the Bush campaign's biggest financial supporters are energy industry executives.

Bush's list of "pioneers," volunteer fundraisers who collected at least \$100,000 apiece from donors for his presidential campaign, include Anthony Alexander, president of FirstEnergy; Robert B. Holland, III, chief operating officer of Triton Energy, Ltd.; Don Jordan, CEO of Reliant Energy; Richard Kinder (and his wife, Nancy), CEO of Kinder Morgan Energy Partners and former president of Enron Corp; Thomas R. Kuhn, president of the Edison Electric Institute, the trade association for the utility industry; Kenneth Lay, CEO of Enron Corp. (number 12 on the list of top contributing tax avoiders); Steve Ledbetter, CEO of Reliant Energy; and A.R. "Tony" Sanchez, CEO of Sanchez-O'Brien Oil & Gas.

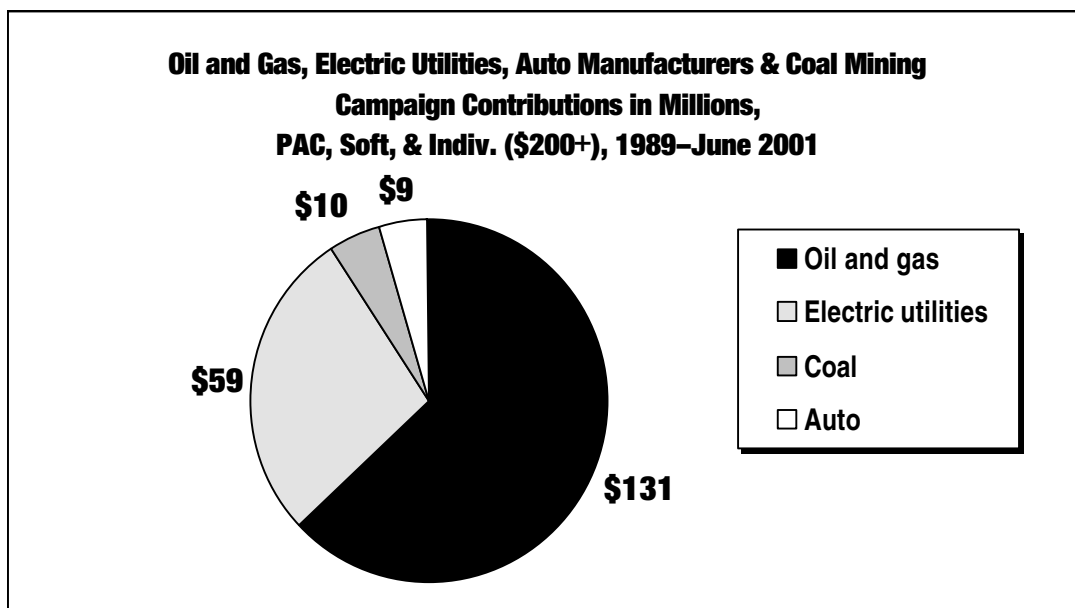
Cheney headed up the task force charged with coming up with the administration's energy plan. Energy executives and lobbyists reportedly had unusual access. Three Enron Corp. executives, for example, had a private session with the Vice President, who did "a lot of listening," according to a report in the *Los Angeles Times*.¹⁸ The Bush Administration has refused to cooperate with an investigation by the U.S. General Accounting Office (GAO) on the process behind the development of the Administration's energy plan, including refusing to provide a list of the business executives and lobbyists who visited the White House to discuss it. The GAO, which undertook the investigation at the request of Reps. Henry Waxman (D-CA) and John Dingell (D-MI), is considering litigation against the administration.¹⁹

In August 2001, Rep. Jim McCrery (R-LA), chairman of the Subcommittee on Select Revenue Measures of the House Ways and Means Committee, and the

¹⁸Judy Pasternak, "Bush's Energy Plan Bares Industry Clout," *Los Angeles Times*, August 26, 2001, p. A1.

¹⁹Press release, U.S. General Accounting Office, September 7, 2001.

recipient of \$51,530 from the oil and gas, electric utility, and auto manufacturing industries in the 2000 election cycle, introduced legislation granting billions of dollars in tax breaks for those industries. These included breaks on depreciation rules, tax-exempt bonds for power plant construction, and tax concessions for so-called “marginal” oil and gas wells and small refiners. The committee members who voted on the bill on July 18, 2001, had collected \$2.5 million during the 2000 election cycle from the industries that would benefit the most, according to an analysis by the U.S. Public Interest Research Group (U.S. PIRG).²⁰ The 24 members who voted in favor of the bill received, on average, two-and-a-half times the average amount received by the members who voted “no,” according to U.S. PIRG. The full House approved the energy bill, including the tax provisions, in August 2001. The Senate has yet to act.



Campaign Contributions versus Tax Breaks in the House-Passed Energy Bill		
Industry	Campaign Contributions, 1990-2002 Election Cycles**, PAC, Soft, & Indiv (\$200+)	Tax Breaks*
Oil & gas, coal	\$141 million	\$16.2 billion
Electric utilities	\$58.6 million	\$8 billion
Auto manufacturers	\$9.5 million	\$2.4 billion

*Citizens for Tax Justice, from Joint Committee on Taxation data.
**PAC, soft and individual, 1989 – June 2001

²⁰“Special Deals for Special Interests: An Analysis of Polluter Contributions and the House of Representatives Energy Bill,” U.S. Public Interest Research Group (U.S. PIRG), July 2001.

Foreign Sales Corporations: Declared Illegal, Corporate America Lobbies to Save Export Subsidies; Microsoft Leads Fight for Expansion

You may have missed the recent international uproar over “Foreign Sales Corporations,” or FSCs. But corporate America didn’t. FSCs offer American corporations a 15 to 30 percent tax exemption on their export profits, a loophole that dates back to the Nixon Administration. In other words, if you manufacture and sell all your goods in the United States, you get no special treatment, but if you export your goods, you do. This favoritism makes the business playing field uneven. It also displeases our trading partners, and in 2000, the World Trade Organization (WTO) ruled that FSCs were an illegal subsidy. Reform or eliminate the law, said the WTO, or the European Union, which brought the original complaint, could start slapping 100 percent tariffs on U.S. exports as of October 2000.

Enter Ken Kies. (See *The Lobbying Game*.) Kies went to work for a client called the “FSC 2000 Coalition,” which ended up paying more to PricewaterhouseCoopers that year than any other lobbying client, nearly \$1 million.²¹ Kies worked closely with Hill staff to come up with legislation to provide a corporate-friendly fix for the problem, as did other tax lobbyists hired by other coalitions. Rather than do what the WTO and international law required, eliminate the subsidy, politicians listened to the corporations and lobbyists that supply such a huge amount of their campaign dollars. In November 2000, Congress passed and President Bill Clinton signed “The FSC Repeal & Extraterritorial Income Exclusion Act of 2000,” which provided an estimated \$62 billion in tax breaks over the next decade to Boeing Company, General Electric, Monsanto, RJR Nabisco and other companies that are major exporters. These companies, plus half a dozen others, had already saved \$2.6 billion from the tax break between 1991 and 1998. They also contributed \$34 million to federal candidates and parties between 1991 and 2000.

The European Union, however, found the U.S. “solution” to be unsatisfactory and brought a new complaint. In July 2001, a World Trade Organization panel ruled against the U.S. again. House Ways and Means Chairman Bill Thomas vowed to revisit the issue.²² (Kies, remember, agreed to help Thomas raise \$6 million for House Republicans earlier this year.) New legislation, of course, means new lobbying opportunities — as well as more chances for politicians to raise campaign cash.

Before the WTO dispute erupted, FSCs were already a focal point for corporate lobbying. The story of how Microsoft led the charge, just a few years ago, to get FSCs expanded to include software exporters is a lesson in how exploiting both campaign contributions and technicalities can be immensely lucrative. In this case, Microsoft

²¹Shawn Zeller, “For the Big 10, Income Keeps Rising,” *The National Journal*, vol. 33, no. 15, p. 1112, Apr. 14, 2001.

²²“Thomas Vows FSC Reform After Second Negative WTO Ruling,” *National Journal’s Congress Daily*, July 25, 2001.

found a huge corporate tax break that already existed and convinced Congress to let the company take advantage of it. Think of it as the “if Johnny has a scooter, than I should get a scooter, too” tax lobbying strategy.

In 1997, the company spearheaded a campaign for congressional approval of expansion of the FSC tax break to include computer software, which, of course, Microsoft makes. Since Congress approved the change, through an 86-word provision buried in the massive 1997 budget reconciliation bill, Microsoft has benefitted very substantially — it doesn’t disclose exactly how much — from the \$7.3 million the company has invested in federal politicians and party committees since 1991. Of course, like most major corporate donors, Microsoft had other concerns in Washington besides taxes during that time — most notably the Justice Department’s antitrust suit against the company — and thus other reasons for being generous to politicians. Contributions, however, are contributions, and they can help buy influence in Washington on numerous fronts simultaneously.

Like many of these sorts of battles, this one began with some clever accountants. Back in the mid-1990s, Microsoft’s accountants urged the Internal Revenue Service (IRS) to interpret FSC regulations to allow software companies to qualify for the tax break. Microsoft had the support of the rest of the software industry, which was also eager for the tax break. “[T]he IRS interpretation of these regulations has been to deny FSC benefits for exports of software accompanied by the right to reproduce. This interpretation discriminates against the software industry by denying this benefit, which is available to all other U.S. exporters,” testified Michael P. Boyle, chief tax counsel for Microsoft Corp., on behalf of the Software Publishers Association, a trade organization, before the House Ways and Means Committee, in July 1996.²³

The IRS denied Microsoft’s request, a decision that Microsoft promptly challenged with a petition in Tax Court.²⁴ At the same time, however, the company was flexing its new lobbying muscles.

While the company had shunned playing the Washington lobbying game for a long time, that changed when the U.S. Justice Department started its antitrust investigation of the company. Microsoft had recently beefed up its lobbying forces, hiring as its chief lobbyist Jack Krumholz, whose former law firm included Lloyd Bentsen, Clinton’s first Treasury Secretary.²⁵ The company hired as one of their contract lobbyists, Grover Norquist, leader of the anti-tax group “Americans for Tax Reform,” who had close ties to then-House Speaker Newt Gingrich (R-GA).

Microsoft was also increasing its campaign contributions. In the 1992 election cycle, the company’s PAC, executives, and their families contributed a grand total of \$56,000 to federal candidates and parties. But, by the close of 1996, that amount had

²³Testimony of Michael P. Boyle, chief tax counsel and general auditor, Microsoft Corporation, on behalf of the Software Publishers Association, before the House Ways and Means Committee, July 18, 1996.

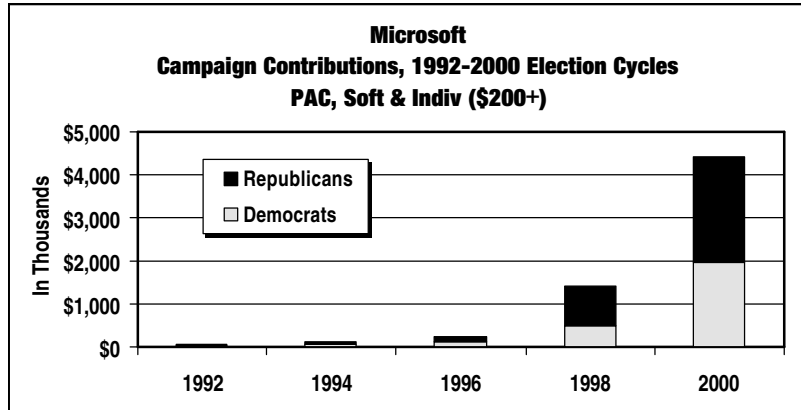
²⁴“United States: FSC Benefit for Computer Software,” *World Tax Report*, Oct. 1, 1996.

²⁵Les Blumenthal, “Microsoft No Mouse in Halls of Congress,” *Sacramento Bee*, Sept. 15, 1996, p. E1.

more than quadrupled, to \$257,000. The company had also donated software to both the Democrats and the GOP for their presidential party conventions.²⁶

Results were quick in coming.

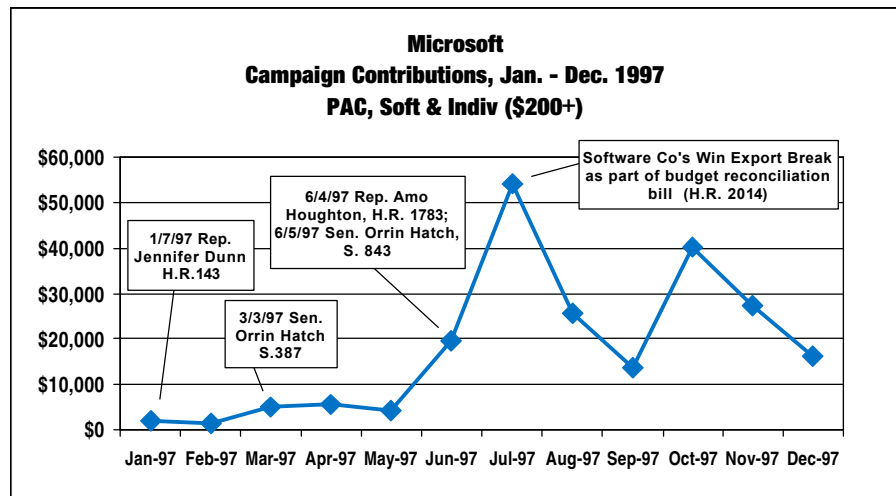
On September 17, 1996, Sen. Larry Pressler (R-SD), a member of the Senate Finance Committee, introduced S. 2086, which would apply the FSC tax break to software companies. Microsoft CEO Bill Gates himself had given Pressler a contribution of \$750 the year before.



In the budget for fiscal year 1998 that President Bill Clinton sent to Congress, he proposed slashing the FSC benefit for many multinationals by revising the law — but at the same time giving software exporters the tax savings they craved.²⁷ The company had donated \$32,000 in soft money to Democratic Party committees during the 1996 elections.

On January 1, 1997, Rep. Jennifer Dunn (R-WA), a member of the House Ways and Means Committee, introduced H.R. 143, the Software Export Equity Act. Dunn collected nearly \$30,650 in campaign contributions from Microsoft’s PAC and executives between 1991 and June 2001, including more than \$3,000 from Boyle, the Microsoft attorney who had testified before her committee on the FSC tax break.

Later in the year, Sen. Orrin Hatch (R-UT) and Rep. Amo Houghton (R-NY), members of the Senate Finance and House Ways and Means Committees, respectively, also introduced bills to apply the FSC tax break to software companies.²⁸ Overall, members of the Senate Finance and House Ways and Means Committees collected \$54,700 from Microsoft’s



²⁶*Id.*

²⁷Tom Connors, “Budget Targets Trade Taxes,” *Journal of Commerce*, Feb. 7, 1997, p. 1A.

²⁸S. 387, Sen. Orrin Hatch (R-UT), introduced Mar. 3, 1997; S. 843, Sen. Orrin Hatch, introduced June 5, 1997; H.R. 1783, Rep. Amo Houghton (R-NY), introduced June 4, 1997.

PAC and executives and their families during the 1998 election cycle, when the debate over the FSC provision was hottest. After several bills were introduced to grant software companies the FSC tax break, Congress' tax writing committees inserted the legislation into the mammoth budget reconciliation bill, H.R. 2044, which Congress approved in July — exactly the month when Microsoft's campaign contributions to politicians and parties peaked for the entire year, at \$54,100.

FSCs are hardly the only tax break Microsoft has secured. The ITEP study reports that Microsoft took advantage of loopholes to avoid more than \$2 billion in taxes from 1996 through 1998.

Research and Experimentation Tax Credit: Pharmaceutical and High-Tech Industries Want Special Subsidies for Meeting Their Job Descriptions

The pharmaceutical and computer industries, which benefit the most from the research and experimentation (R&E) tax credit, have contributed \$148 million to federal candidates and parties since 1989. Extending the R&E tax credit by ten years would cost \$47.3 billion, according to the Joint Committee on Taxation.²⁹

The R&E tax credit is basically a break for companies for some of the arguably scientific work they do in developing new products. Giving special tax treatment to research-dependent companies, however, rewards these companies for what they're in business to do anyway. This is equivalent to giving teachers a tax break for grading papers or giving students a tax cut for doing their homework.

The R&E tax credit is one of a series of perennial tax breaks for industry that require periodic renewal from Congress — and there is a lobbying frenzy every time it comes up. In recent years there has been a push by industry to make the R&E tax credit permanent. President George Bush's original campaign tax-cut proposal included a provision to do so, but this was not included in the tax bill passed by Congress in June.

The R&E credit has its origins in the 1981 Economic Recovery Tax Act. In the 1990s, Congress extended the tax credit several times, on a couple of occasions, retroactively. One of the drug industry's champions on this issue is Sen. Orrin Hatch (R-UT). In a 1995 press release, Hatch admitted that the R&E credit has not been successful in increasing the amount of research companies do, but he blamed it on the fact that the credit must be periodically renewed.

“The R&E credit was designed to reward increased research expenditures over an amount the company would perform without an incentive. Unfortunately, the credit

²⁹“Estimated Revenue Effects of a One-Year Extension of Federal Tax Provisions Scheduled to Expire in 2001 and Permanent Extension of Federal Tax Provisions Scheduled to Expire in 2001-2010,” JCX-66-01, Joint Committee on Taxation, August 3, 2001.

has not perfectly achieved this difficult objective. The fact that the credit has always been temporary has probably resulted in lower utilization of the credit, simply because an expiring credit cannot be counted on in long run planning. Research and development is by nature long-term,” Hatch said in 1995 press release.³⁰

Free-marketeers might be pleased that the R&E credit has not persuaded companies to engage in very much uneconomic research activities. But many of its backers have pushed hard to make it permanent, and therefore, they argue, more effective at achieving that controversial goal.

Hatch has proposed a number of times to make the tax credit permanent. In July 1999, for example, he offered an amendment in the Senate Finance Committee to do so. The committee approved that bill on July 21, 1999, by a vote of 13 to 7. Five days later, on July 26, 1999, Hatch received a “bundle” of contributions totaling \$10,000 from a who’s-who of top Pfizer executives, each of whom gave the maximum allowed for an election, \$1,000. (Individuals are permitted to contribute \$1,000 to a candidate’s primary election and \$1,000 for the general election during a given election cycle.) Pfizer has apparently saved significant amounts in taxes from the research and experimentation tax credit, and overall Pfizer enjoyed more than \$1 billion in tax breaks between 1996 and 1998, according to ITEP.

The bundle of contributions for Hatch included \$1,000 apiece from Pfizer CEO William Steere, and his wife, Lynda; \$1,000 apiece from former Pfizer CEO Edmund Pratt and his wife, Jeanette; \$1,000 from M. Kenneth Bowler, Pfizer’s chief Washington lobbyist; \$1,000 from David Shedlarz, Pfizer’s chief financial officer; \$1,000 from C. Louis Clemente, Pfizer’s executive vice president and corporate counsel; \$1,000 from William Robison, executive vice president, employee resources; \$1,000 from Nigel Gray, vice president; and \$1,000 from Brian Barrett, president of the company’s Animal Health Group.

This bundle from Pfizer is hardly the only expression of gratitude that Hatch has received from the pharmaceutical industry. Between 1991 and June 2001, Hatch received a total of \$39,000 from Pfizer’s PAC, executives, and their families. He received \$464,000 from the pharmaceutical industry between 1995 and 2000, and another \$130,000 from the computer industry. Not surprisingly, Hatch’s devotion to the research credit continues. On May 21, 2001, Hatch reluctantly withdrew his

The Permanently Temporary Credit

1990: Omnibus Budget Reconciliation Act extends R&E tax credit through 12/1/91.

1991: Tax Extension Act of 1991, extends R&E tax credit through 6/30/92.

1993: Omnibus Budget Reconciliation Act of 1993 extends R&E tax credit retroactively from 7/1/92-6/30/95.

1996: Small Business Protection Act of 1996, extends R&E tax credit 7/96 to 7/97. Gap in law between 7/1/95-7/1/96.

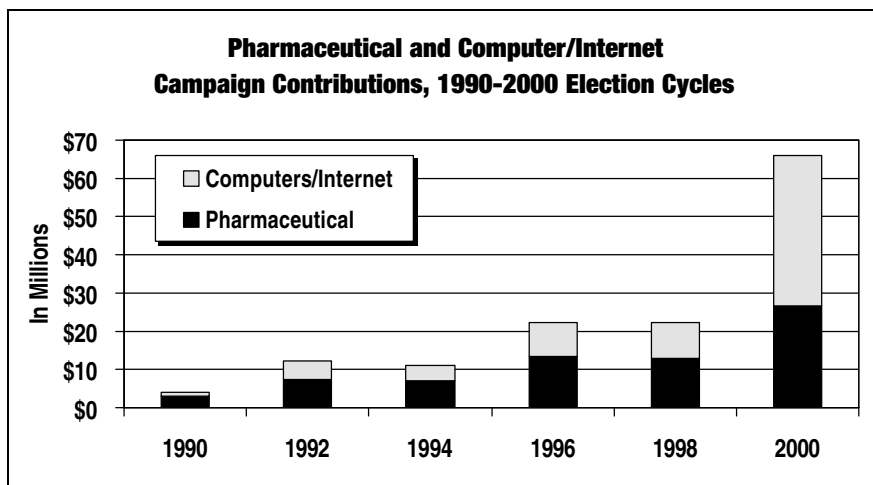
1997: Taxpayer Relief Act of 1997, extends R&E tax credit through 6/30/98.

1999: Ticket to Work and Work Incentives Improvement Act, extends R&E tax credit retroactively through 6/30/04.

2001: Bush tax plan includes permanent extension of R&E tax credit; passed by Senate as part of Economic Growth and Tax Relief Reconciliation Act, dropped in conference committee. Champions of the R&E credit permanent extension hope to attach it to another tax bill during the 107th session.

³⁰“Hearing Statement by Sen. Orrin Hatch on Research and Experimentation Tax Credit,” April 3, 1995, press release.

amendment to make the research and experimentation tax credit permanent from debate over the Economic Growth and Tax Relief Reconciliation Act. Two days later, however, a permanent extension of the tax break was tacked on to an amendment offered by Sen. Chuck Grassley (R-IA). The amendment dealt with a long list of issues, from health care deductibility for the self-employed to marriage penalty relief. The Senate approved the Grassley amendment by voice vote. The research credit extension, however, was later dropped during conference committee, and was not included in the version of the bill that Bush signed into law on June 7, 2001. Hill watchers expect the credit, which has support from members of both parties, to crop up again in another bill this session, despite its steep price tag.



Puerto Rican Tax Breaks: Saving Treasure Island

For decades, Section 936 of the Internal Revenue Code produced a great deal of tax savings for companies with operations in Puerto Rico. Tax credits for companies doing business in Puerto Rico date back to the 1940s, to a program called Operation Bootstrap, designed to encourage development on the island. Eventually, Section 936 became so abused that it not only allowed U.S. companies to avoid paying federal income taxes on their profits from work conducted in Puerto Rico, but it also became a tax shelter for mainland profits. The pharmaceutical industry benefitted the most. By 1987, the pharmaceutical companies with Puerto Rican operations were getting \$70,788 in tax breaks, on average, for every worker they employed in Puerto Rico.³¹

Overall, top tax-avoiding companies who benefitted most from the Section 936 tax break contributed \$14.3 million between 1991 and June 2001 in federal elections. Since these companies reaped over half a billion dollars in tax benefits from the Section 936 tax break in 1998 alone, their campaign finance investment was money pragmatically spent.

Two of the pharmaceutical industry's fiercest advocates for saving the Puerto Rico tax break, New Jersey Republican Rep. Dick Zimmer and New Jersey Democrat Sen.

³¹"GAO: Drug Companies Reap Tax Breaks in Puerto Rico," *American Health Line*, May 15, 1992.

Frank Lautenberg, were also among top recipients of the campaign cash from top tax-avoiders benefitting from the Puerto Rican tax break between 1991 and June 2001. Zimmer, who sat on the Ways and Means Committee during the 105th Congress received \$186,000.³² Lautenberg received \$87,825. Many of the pharmaceutical companies doing business in Puerto Rico are headquartered in New Jersey. Other fierce defenders include Sen. Orrin Hatch (R-UT), who received \$65,400, former Senator Alfonse D'Amato (R-NY), who received \$54,300, and Rep. Charles Rangel (D-NY), who received \$42,250.

While the tax break came under attack, the affected companies and their trade associations used a host of well-connected lobbyists and politicians to plead their case.³³ These included former Rep. Beryl Anthony (D-AR), hired by Pfizer and Bristol-Myers Squibb. While in Congress, Anthony had served on the Ways and Means Committee and as chairman of the Democratic Congressional Campaign Committee, the fundraising arm for House Democrats. After leaving, he went on to work for the powerful law firm Winston & Strawn. Anthony had close ties to the Clintons; he is married to Sheila Foster Anthony, who served in the White House legislative affairs office and is the sister of late deputy White House counsel Vince Foster.³⁴ The top tax-avoiding companies benefitting from Section 936 gave the Democratic Congressional Campaign Committee \$177,300 from 1991 to June 2001 in soft money.

Another heavy-hitter was Haley Barbour, then-chairman of the Republican National Committee (RNC). According to the *Washington Post*, he approached several Congressional leaders in September 1995 to argue against the repeal of Section 936.³⁵ These included House Ways and Means Chairman Bill Archer (R-TX), House Speaker Newt Gingrich (R-GA), Rep. John Kasich (R-OH), and Senate Majority Leader Bob Dole (R-KS). He argued that eliminating the tax breaks was equivalent to raising taxes on the affected companies, saying, "I thought our position as a party, generally speaking, was against tax increases, period." The top tax-avoiding companies in this study affected by Section 936 gave \$2.6 million in soft money to the RNC between 1991 and June 2001.

The industry staved off an attempt by Senator David Pryor (D-AR) to reform the tax break in 1992. In the following Congressional session, facing budget cuts, President Clinton proposed the credit be limited to 60 percent of wages paid to employees in Puerto Rico. Industry fared better in the version Congress ended up passing, which did not tie the tax credit to wages, and phased in the 60 percent cut

³²Zimmer was elected to the House in 1990, ran an unsuccessful campaign for the Senate in 1996, and then an unsuccessful campaign for the House in 2000.

³³Rebecca Borders and C.C. Dockery, "Making the Right Connections," *The Washington Times*, Jan. 18, 1994, p. A10.

³⁴*Id.*

³⁵Eric Pianin, "How Business Found Benefits in Wage Bill," *The Washington Post*, Feb. 11, 1997, p. A1.

over five years.³⁶

Finally, in 1996, Congress voted to phase out the subsidy as a way to pay for other business tax breaks. However, the reform was delayed, with Section 936 slated to be phased out over a decade. This slow phase-out was considered a victory by the 936 firms. At the time, Zimmer told *The Record*, that the phase out was “really the best deal we could get. . . . There was a real risk it would be eliminated almost immediately.”³⁷

Since the phase-out has been in effect, Puerto Rico’s economy has not suffered the way the tax break’s proponents had argued it would, nor have drug companies deserted the island in droves. Puerto Rico’s unemployment rate was down to 11% in 2000, compared to 16.5% in 1992.³⁸ Eli Lilly & Company recently committed \$250 million for a new biotech production facility to manufacture the diabetes drug Humalog, Wyeth-Ayerst announced over \$200 million in capital expansion projects, and Merck & Co. announced new capital projects of about \$300 million.³⁹

In the wake of the terrorist attacks, boosters of Puerto Rico tax breaks are back, asking for new loopholes. Lobbyists from the professional lobbying firms BKSH, Patton Boggs, and Winston & Strawn are pushing for changes to Section 936 of the tax code, which would benefit companies doing business on the island by allowing them to repatriate 85 percent of their earnings to the United States tax-free.⁴⁰

Campaign Contributions by Selected Companies Benefiting from the Section 936 Tax Break for Operations in Puerto Rico PAC, Soft & Individual (\$200+) Contributions, 1992-2000 Election Cycles		
Company	Section 936 Tax Breaks, 1998	Contributions
American Home Products	\$ 219,000,000	\$ 2,129,449
Bristol-Myers Squibb	26,000,000	4,763,333
Eaton Corp	40,000,000	405,585
Johnson & Johnson	235,000,000*	1,427,490
Merck & Co	133,000,000	2,168,407
Pepsico	494,000,000	3,456,476
TOTAL	\$ 912,000,000	\$ 14,350,740

*Johnson & Johnson reported \$235 million in 1986 from tax savings from activities in Puerto Rico and Ireland but did not disaggregate the figures.

³⁶*Prescription for Power*, Common Cause, June 2001, www.commoncause.org/publications/june01/phrma.

³⁷Adam Piore, “Pharmaceutical Loophole Closing,” *The Bergen Record*, Aug. 3, 1996, p. A8.

³⁸Michael Casey, “Calderon’s Success in Puerto Rico Rides on Tax Credits,” *The Wall Street Journal*, Dec. 26, 2000.

³⁹“Puerto Rico Lobbies for Tax Reform to Retain Pharmaceutical Dominance,” industrialinfo.com, July 23, 2001.

⁴⁰Peter Stone, “Taxing Times on K Street,” *The National Journal*, Oct. 13, 2001, vol. 33, no. 41.

Conclusion: Toward a Different System

At a time of national crisis, it is important to ask whether it is smart public policy to reward profitable corporate campaign contributors with enormous tax breaks. Ordinary Americans, the great majority of whom cannot afford to augment their vote at the polling booth with a campaign contribution, are being asked to sacrifice to serve the national interest. The White House is already preparing lists of possible cuts in social programs. Plans to expand other services, which were on the agenda before the events of September 11, 2001, have been stalled. Yet large corporations are pushing, with the power of hundreds of millions of dollars in campaign contributions behind them, for new tax breaks.

In the 2000 elections, only one-eighth of one percent of voters gave a contribution to a federal candidate of at least \$1,000. Most Americans cannot afford the services of high-priced lobbyists, who help politicians raise millions in campaign dollars, to plead their cases for what they'd like government to do.

The results are told above. We have a lopsided tax system, in which large corporations reap billions of dollars in tax relief, while ordinary Americans are given a pat on the head and told that corporate tax law is just too complicated and boring to worry about.

In a democracy, the ideal is one person, one vote, not the Orwellian *Animal Farm* notion that "some people are more equal than others." The making of tax policy should be a reflection of this principle, in which all people's concerns are taken into account, not just the views of a narrow group of special interests with millions in campaign cash to distribute.

Taking steps toward a political system not dominated by large campaign contributions will ultimately lead to more equitable public policies — regarding not only taxes, but also a host of other issues that people care about, from the environment to health care to public safety. It would also help make the business world more competitive and efficient, because it will be the companies that have the best products and strategies that do well, rather than those with the best-connected lobbyists. A stronger democracy is the best defense for whatever threats our country must face. What better example could we set for the world than to have a government where democracy flourishes, where every citizen counts, whether he or she is a campaign donor or not.

Methodology

Federal Election Commission (FEC) contribution data for the top tax-avoiding companies between 1996 and 1998, including the 23 companies that paid less than zero taxes in 1998, from the 1992 election cycle through the 2002 (Jan. 91 through June 2000) election cycle was supplied to Public Campaign by the Center for Responsive Politics (CRP), which downloads data from the FEC and codes records by employer and industry. Industry campaign giving data and all other campaign finance figures were either provided by CRP or obtained from the group's web page, www.crp.org.

Corporate tax information comes from the Institute on Taxation and Economic Policy's study, *Corporate Income Taxes in the 1990s* (Oct. 2000), and additional research from corporate annual reports by ITEP and Citizens for Tax Justice.

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About Public Campaign

Public Campaign is a non-profit, non-partisan organization dedicated to sweeping reform that aims to reduce dramatically the influence of special interest money and big contributors on America's elections. Public Campaign is laying the foundation for reform by working with citizens organizations and other groups around the country that are fighting for comprehensive change. Together, we are building a network that includes participants from many states, creating a powerful national force for federal reform.

Public Campaign advocates for "Clean Money/Clean Elections" campaign finance systems, now the law in four states: Arizona, Maine, Massachusetts, and Vermont. Under Clean Money/Clean Elections systems, candidates who choose not to accept private contributions qualify for public financing for their election campaigns. At the federal level, Rep. John Tierney has introduced a bill, H.R. 1637, the Clean Money, Clean Elections Act, and in the Senate, Sen. Paul Wellstone (D-MN) has introduced S. 719.

About Citizens for Tax Justice

Citizens for Tax Justice, founded in 1979, is a public-interest research and advocacy organization focusing on federal, state and local tax policies and their impact upon our nation. CTJ's mission is to give ordinary people a greater voice in the development of tax laws. CTJ's website is www.ctj.org.

About the Institute on Taxation and Economic Policy

The Institute on Taxation and Economic Policy (ITEP) is one of the leading research and education organizations in the country working on taxation and public spending policy issues. Since its founding in 1979, ITEP's work has played a key role in educating the public and informing federal and state tax reform debates. ITEP's website is www.itepnet.org.