



Written by [Gary Benoit](#) on March 24, 2009

Channeling the Outrage Over AIG Bonuses

The American people are understandably outraged to learn that the American International Group (AIG), a corporate giant that has received almost \$200 billion in total TARP/TALF funding, has recently paid \$165 million in retention bonuses to its top executives. The fact that these payments were made to fulfill already-existing contractual obligations and that most of the recipients have reportedly indicated a willingness to return the money has not done much to quell the public anger. After all, a company in such dire financial straits to require vast infusions of federal bailout funds should not be giving its employees millions of dollars in bonuses, period.



The House of Representatives responded quickly to the news about the bonus payments by passing legislation on March 19 that would tax the bonuses at a 90 percent tax rate as a means of recovering almost all of the payments. The Senate has yet to act on similar legislation. But in their haste to pass this legislation, the House members who voted for it very conveniently overlooked the fact that the money their selective tax would recover would represent less than one percent of the TARP/TALF funding AIG has received. How about the remaining 99-plus percent? And they also either overlooked the fact — or did not know — that the tax they would impose is unconstitutional.

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The Constitution explicitly states: “No Bill of Attainder or ex post facto Law shall be passed.” Bills of Attainder were acts punishing a person or group without the benefit of a trial. In *The Federalist*, No. 44, James Madison, the Father of the Constitution, wrote: “Bills of Attainder, ex post facto laws, and laws impairing on the obligation of contracts, are contrary to the first principles of the social compact, and to every principle of sound legislation.” Madison’s assessment is understandable: if the U.S. government could retroactively impose a confiscatory tax on a particular person or group — as the House-passed bill would do in the case of the AIG executives who received bonuses — then no man’s purse would be safe.

The day after the House action, Senator Judd Gregg (R-N.H.) [issued a statement](#) explaining the folly of this legislative approach without mentioning its unconstitutionality. “It is wrong for members of the United States Congress and the President to propose to use the taxing authority of the government in a manner that is arbitrary, punitive, and targeted on a single group of people who they have deemed as having acted improperly,” Gregg stated. “The ability to tax is one of the most powerful and important roles of a democratic government, and that power should not be used in a way that undermines its credibility and creates precedents that could lead to significant abuse.”

But in his statement Gregg did not call for ending the bailouts as an appropriate response for ending abuse of bailout money. Instead, the Republican senator opined: “The actions that occurred at AIG relative to bonuses were despicable but arose, in large part, because of the Administration’s failure to



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conduct proper oversight of the funds distributed to AIG.”

And the Democratic administration is moving to provide more oversight — on a grand scale. Testifying before the House Financial Services Committee on March 24, Treasury Secretary [Timothy Geithner said](#) that “the Administration and Congress have to work together to enact comprehensive regulatory reform” and that “we must create a new resolution authority so that the federal government has the tools it needs to unwind an institution of the size and complexity of AIG.” This new authority “would allow the government to provide financial assistance to make loans to an institution, purchase its obligations or assets, assume or guarantee its liabilities, and purchase an equity interest.”

Geithner added that “the Administration proposes legislation to give the U.S. government the same basic set of tools for addressing financial distress at non-banks as it has in the bank context.” In short, the administration wants the authority to seize nonbanks.

But is extending regulation to the point of nationalization the way to solve abuses of bailout funds? Why not simply end the bailouts — and save not just the money that was used to pay bonuses to AIG executives but all of it?

That was the point Congressman Ron Paul made in a March 20 interview with CNN.

<https://www.youtube.com/watch?v=MshgrVIJF28>

“People are concentrating on these bonuses right now, but they’re missing the point,” Paul said. “The point is that we shouldn’t be in the business of bailing out all these companies. And we don’t even know where the rest of the money went. We just discovered — probably inadvertently — that there were bonuses.”

Photo of Timothy Geithner: AP Images



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