

December 8, 2008

The Honorable \_\_\_\_\_  
United States Senate/House of Representatives  
Washington, DC

Dear Senator/Representative:

We are writing to urge you to cosponsor S. 3692/H.R. 7300, the legislation introduced by Senator Bernie Sanders and Congressman Lloyd Doggett to reverse IRS Notice 2008-83, also called the “Wells Fargo ruling” after its largest beneficiary to date. This Treasury notice essentially says that banks can ignore an explicit provision in the Internal Revenue Code that prevents abusive tax shelters. Lawmakers must reverse this Treasury notice now or early in the 111<sup>th</sup> Congress to send a message that corporate lobbyists cannot circumvent the legislative process in their search for new tax cuts.

A widely cited analysis from the law firm Jones Day estimates that the Treasury notice will result in tax cuts for large banks eventually reducing federal revenue by \$140 billion.

In addition, state governments will also lose revenue, because most states have a corporate tax that is linked to the federal corporate tax. California, for example, will reportedly lose \$2 billion if the Treasury notice is allowed to stand. This is particularly problematic because many state legislatures face procedural obstacles to enacting any legislation that would increase revenues to make up for this unexpected corporate tax cut.

IRS Notice 2008-83 essentially repeals, for banks only, Section 382 of the tax code, which prevents companies from using the losses of companies they acquire to reduce their own tax liability. Section 382 was enacted by Congress in 1986 to stop companies from sheltering their income by purchasing shell companies with losses on their books. Before that time, many mergers took place not because they made economic sense but merely because they offered a tax shelter. Ever since Section 382 was enacted to end these abuses, corporate lobbyists have been promoting its repeal.

Lawmakers and advocates who support measures to stimulate the economy through extending unemployment insurance benefits, nutrition programs or assistance to state governments have been locked in difficult negotiations to craft legislation that can pass in both chambers of Congress. Now it appears that many of the lobbyists promoting the repeal of Section 382 have not been held to the same standard.

The change they sought, which costs more than the measures mentioned above, has been accomplished through a two-page notice that directly contravenes the explicit intent of a statute enacted by Congress.

S. 3692 and H.R. 7300 would reverse the Treasury notice so that Section 382 would once again be an effective block on tax shelters.

We understand and appreciate that Congress is extremely attentive to the state of the economy right now. The federal government is taking many unprecedented actions to put the economy back on firm footing. But reversing a longstanding tax rule without Congressional authorization should not be one of them.

### **National Organizations**

AFL-CIO  
American Federation of State, County and Municipal Employees (AFSCME)  
American Federation of Teachers  
Americans for Democratic Action  
Citizens for Tax Justice  
Coalition on Human Needs  
Community Action Partnership  
National Women's Law Center  
OMB Watch  
Progressive States Network  
Public Citizen  
Sargent Shriver National Center on Poverty Law  
Service Employees International Union (SEIU)  
United for a Fair Economy  
USAction

### **State and Local Organizations (alphabetical by state)**

Birmingham Friends Meeting (AL)  
Arkansas Advocates for Children and Families  
Arizona Advocacy Network  
Pan de Vida Foundation (AZ)  
Progressives of the Verde Valley (AZ)  
California/Nevada Community Action Partnership  
California Tax Reform Association  
Daughters of Mary and Joseph (CA)  
East Oakland CDC (CA)  
Health Care For All California (CA)  
Independent Living Resource Center (CA)  
Long Beach Area Peace Network (CA)  
Low-Income Families' Empowerment through Education (LIFETIME) (CA)  
Citizens Progressive Alliance (CO)  
Colorado Community Action Association  
Colorado Progressive Action  
Collaborative Center for Justice (CT)

Connecticut Association for Community Action  
Connecticut Citizen Action Group  
Connecticut Voices for Children  
Poor People's Alliance (CT)  
Vecinos Unidos (CT)  
National Association of Social Workers, CT Chapter  
Center for Florida Fiscal & Tax Reform  
Florida Consumer Action Network  
Florida Fiscal Policy Project  
Pax Christi Florida  
Georgia Rural Urban Summit  
Surfrider Foundation/East-West Center (HI)  
United Vision for Idaho  
Iowa Citizen Action Network  
Center for Tax and Budget Accountability (IL)  
Citizen Action/Illinois  
Griffin Center/Catholic Urban Programs (IL)  
Habitat for Humanity of Illinois  
Healthy Families Chicago (IL)  
United Way of Delaware County (IN)  
Benedictine Sisters of Mount St. Scholastica (KS)  
Community Action Kentucky  
Agenda for Children (LA)  
Circle Of Hope MCC Special Ministry (ME)  
Maine Center for Economic Policy  
Maine People's Alliance  
Episcopal Diocese of Maryland  
Progressive Maryland  
Public Justice Center (MD)  
Cambridge United for Justice with Peace (MA)  
Adrian Dominican Sisters (MI)  
American GI Forum of Flint, MI  
Michigan Citizen Action  
Michigan Council on Crime and Delinquency  
Integrated Community Solutions, Inc. (MN)  
Minnesota Citizens for Tax Justice  
Pax Christi Northwest Minnesota  
Leadership Team of the Sisters of the Most Precious Blood (MO)  
Missouri Progressive Vote Coalition  
Missouri Women's Network  
Missourians for Tax Justice  
New Hampshire Citizens Alliance  
Casa Esperanza New Jersey  
New Jersey Citizen Action  
New Jersey Immigration Policy Network  
Community Action New Mexico

Citizen Action of New York  
Fiscal Policy Institute (NY)  
Jewish Labor Committee (NY)  
Learning Disabilities Association of Western New York  
Public Policy Office of the Roman Catholic Diocese of Syracuse (NY)  
St. Peter Damian Fraternity Secular Franciscan Order (NY)  
Westside Neighborhood Alliance (NY)  
NDPeople.org (North Dakota)  
Ohio Conference on Fair Trade  
Oregon Action  
Dignity Housing (PA)  
Just Harvest: A Center for Action Against Hunger (PA)  
Pennsylvania Council of Churches  
YWCA of York (PA)  
Ocean State Action (RI)  
South Carolina Appleseed Legal Justice Center  
Tennessee Citizen Action  
Tennessee Health Care Campaign  
Tennesseans for Fair Taxation  
Coalition on Working People and the Poor (TX)  
Dominican Sisters of Houston, TX  
Education Equals Making Community Connections (TX)  
La Fe Policy Research & Education Center (TX)  
Texas Welfare Rights Organization  
Utah Community Action Partnership Association  
Coalition for Justice (VA)  
Commonwealth Institute (VA)  
Disabled Action Committee (VA)  
Washington Community Action Network  
West Virginia Center on Budget and Policy  
West Virginia Citizen Action Group  
Citizen Action of Wisconsin  
Interfaith Coalition for Worker Justice of South Central Wisconsin