

Polly, bank and tax losses

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I was an acknowledged source for Polly Toynbee's column in the Guardian this morning, so [I quote at length](#):

Nothing has changed. Obscene pay is back. Ahead lie years of hard labour to repay debts while Krug flows in the City. No regret, no shame, no punctured hubris. Banks seem beyond the control of mere government. Instruments exist to rein them in — taxation, regulation, law — but their threats to abscond make them virtually untouchable. History may mark this as the moment when financiers passed beyond democracy, thumbing their nose while rubbing our nose in it. How puny the G20 deal looks, delaying bonuses for three years when everyone wanted them banned.

Inside Revenue & Customs there is growing concern at the billions that could be lost from banks avoiding taxes for decades to come. Tax gatherers are eager for the Treasury to take urgent action in November's [pre-budget report](#) on two vital issues. As banks move into profit, you might expect them to pay tax. You'd be wrong. They can spread their colossal losses forward forever, offsetting them against tax they owe. All the banks have billions to offset, including those we own. [Merrill Lynch put £16bn of its sub-prime losses through Britain](#), so it may pay no corporation tax in the UK for 60 years. No wonder Revenue & Customs is fuming.

What could be done? There should be a cap on the sum that banks can offset against tax: other EU countries only allow losses to be spread over three years. Tax law says a major change of ownership means a company forfeits its old tax losses. Surely that is the case with Lloyds, RBS, Northern Rock and all the smaller banks eaten up by Santander? No, there's a loophole if losses were in their subsidiaries. But, says Richard Murphy, director of [Tax Research UK](#), a small change in the law could fix it. It would be worth, he says, a minimum of £10bn — or much more. So let's see if Alistair Darling has the nerve to challenge bank profits in November.

The estimate is crude - and as usual, too low. RBS [lost £24 billion](#) in 2008. [HBOS lost £10bn](#) in 2008 and Lloyds £4bn in the [first half of 2009](#). All at 28% would exceed £10bn. But that's not all of the losses incurred to date and there are plenty to

come.

Should these losses be allowed to be carried forward? My answer is no, they should not be. They have not been funded by the companies — they have been funded by the taxpayer — and that is true of the banks not in state ownership as much as is the case for those that are. Without taxpayer cash they would all have failed.

And can this be done? Of course: the opportunity for loss offset has not arisen as yet, so the law cannot be retrospective. So let's save the cash for better purposes, now.

As Polly notes: it's a policy that apparently has support in HMRC. I hope it happens.