

Nixon Was Notified IRS Planned Audit

7-27-74

By Bob Kuttner

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Last Dec. 8, President Nixon with much fanfare made public his 1969-1972 income tax returns and invited the congressional Joint Committee on Internal Revenue Taxation to review the controversial deductions taken for his gift of vice presidential papers to the National Archives.

The President did not dis-

close that, only a day earlier, he had been notified the Internal Revenue Service was reopening a full audit of his 1971 and 1972 returns. Instead, the President's statement referred to the original cursory IRS audit, implying that the IRS had no further questions.

The Internal Revenue Service reviewed the deductions, Mr. Nixon said, "and advised me that they were correctly reported."

In fact, the IRS advised the President in a letter delivered Dec. 7 that he was being re-audited. That evening, according to IRS Commissioner Donald Alexander, the White House sent for copies of Mr. Nixon's tax return.

Apparently, the White House plan to enlist the joint committee was already in progress when word came of the new IRS audit.

These and other details of the President's personal finances emerge from a 552-page House Judiciary Committee book of impeachment, evidence released yesterday.

According to the committee's summary of evidence, IRS Commissioner Alexander personally decided on the re-audit in order to protect the integrity of the IRS. He felt that questions raised in the press and elsewhere "would have caused the examination of the returns of any other taxpayer."

Alexander then advised Treasury Secretary George P. Shultz of his decision. Alexander's notes of the meeting Nov. 28, say, "Secy said . . . go ahead, said he would talk to Gen. Haig. Said lawyers would cause downfall of Govt."

Rep. Wilbur D. Mills (D-Ark), chairman of the congressional joint committee, agreed to investigate the President's taxes, but according to committee aides Mills at the time was probably unaware that the IRS had already begun its own investigation. Eventually,

both the IRS and the joint committee determined that the \$576,000 tax deduction for the papers was improper, and the President was billed for a total tax deficiency of \$432,787.13.

The IRS assessed a negligence penalty, but did not accuse the President of tax fraud. The Judiciary Committee staff summary, however, concluded from additional evidence that Mr. Nixon was aware when he signed his 1969 tax return that the dating of the gift as of March 27, 1969, was untrue.

The 1969 Tax Reform Act, enacted in December, 1969, retroactively eliminated deductions for gifts of papers made after July 25, 1969.

As evidence that the ear-

Judiciary Panel Votes

Rep. Robert McClory's motion to delay decision on impeachment 10 days if President Nixon agrees to turn over the 64 tape recordings involved in the Supreme Court decision:

Yes (11)

Mann (D-S.C.)
Hutchinson (R-Mich.)
McClory (R-Ill.)
Smith (R-N.Y.)
Hogan (R-Md.)
Bulter (R-Va.)
Dennis (R-Ind.)
Froehlich (R-Wis.)
Moorehead (R-Calif.)
Maraziti (R-N.J.)
Latta (R-Ohio)

No (27)

Donohue (D-Mass.)
Brooks (D-Tex.)
Kastenmeier (D-Wis.)
Edwards (D-Calif.)
Hungate (D-Mo.)
Conyers (D-Mich.)
Eilbers (D-Pa.)
Waldie (D-Calif.)
Flowers (D-Ala.)
Sarbanes (D-Md.)
Seiberling (D-Ohio)
Danielson (D-Calif.)
Drinan (D-Mass.)
Rangel (D-N.Y.)
Jordan (D-Tex.)
Thornton (D-Ark.)
Holtzman (D-N.Y.)
Owens (D-Utah)
Mezvinsky (D-Iowa)
Rodino (D-N.J.)
Sandman (R-N.J.)
Rallsback (R-Ill.)
Wiggins (R-Calif.)
Fish (R-N.Y.)
Mayne (R-Iowa)
Cohen (R-Mass.)
Lott (R-Miss.)

lier date was fraudulently claimed after the fact, the staff cites the testimony of Ralph Newman, who appraised the President's papers. Newman told the committee staff that he did not make the appraisal until November, 1969, nearly five months after the cutoff date.

Newman testified that he chanced to meet the President in a White House receiving line Nov. 16; Newman said Mr. Nixon commented that he thought the estimate was high.

Newman added that he believed the President had not made a gift on the date later claimed. "I thought he'd blown it," Newman testified.

The Judiciary Committee documents also reveal that the IRS has asked Special Prosecutor Leon Jaworski to launch a grand jury investigation of possible fraud

charges against Newman, two former Nixon aides and two tax lawyers.

In a letter dated April 2 to Jaworski, IRS Commissioner Alexander called for further investigation of former deputy counsel Edward Morgan, who signed the back-dated deed for the President, lawyers Frank DeMarco and Herbert Kalmbach, who prepared the 1969 tax return, and John D. Ehrlichman, the principal Nixon aide responsible for the papers donation.

Kalmbach, a law partner of DeMarco, is serving a prison sentence for campaign fund-raising violations. Ehrlichman, formerly the President's chief domestic adviser, has been convicted of conspiracy in the Ellsberg break-in.

Another Judiciary Committee document reveals that the IRS considered levying a civil fraud penalty against President Nixon, but found insufficient evidence "linking the taxpayer with the actual preparation of the return."

The memorandum, by Robert Browne, chief of the intelligence section in the IRS Baltimore district office, that direct testimony added by the principal aides would be necessary to demonstrate fraud. However, Newman and Morgan refused to testify and Ehrlichman was never contacted.

Tax fraud is not directly included in the two articles of impeachment before the House Judiciary Committee, although misuse of the IRS has been cited by many members as an example of abuse of office.

One committee member, Edward Mezvinsky (D-Iowa), has urged colleagues to consider the President's own taxes as an impeachment count. Recalling committee concern about IRS and the "enemies list," Mezvinsky declared: "You've got to wonder when you look at the friends list whether President Nixon wasn't his own best friend . . ."

The committee documents indicate that Mr. Nixon has so far paid the IRS less than the total the White House promised he would repay. The President sent a check on April 17 to cover his tax debt for 1970, 1971, and 1972. But according to IRS officials he is still considering whether to pay the 1969 deficiency of \$148,080.97, on which the statute of limitation has expired.