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HERMAN: Commissioner Alexander, ten months ago the District Director of Internal Revenue wrote President and Mrs. Nixon that their income returns for '71 and '72 were correct and that he complimented them on the care shown; and since then you have found them to be incorrect. How can the American taxpayer be assured that similar errors for persons in high place are not still going on?

MR. ALEXANDER: We've made some errors in IRS before; we'll make some errors again, and we try to keep our errors to a minimum. As far as that particular matter that you mentioned, the IRS did not do as thorough an audit as it should have done some ten months ago. Since then, of course, it has re-examined those years, 1971 and 1972, involved in the prior audit, as well as audited 1970 and looked into 1969. And it has done a thorough job.

ANNOUNCER: From CBS News, Washington, a spontaneous and unrehearsed news interview on FACE THE NATION, with the Commissioner of the Internal Revenue Service, Donald Alexander. Commissioner Alexander will be questioned by CBS News Correspondent Daniel Schorr; Eileen Shanahan, economics reporter of the New York Times; and CBS News Correspondent George Herman.

HERMAN: Commissioner Alexander, I think I have to go back to my first question. The man who wrote the letter to President and Mrs. Nixon, William Waters, the District Director, has since been promoted; he told the President that their returns were in good shape. He made, in effect, a several hundred thousand dollar mistake. Now we all know people who are behind on their income taxes maybe a hundred dollars, and are having their tiny salaries garnisheed. They want to know, I want to know, what institutional steps, what changes have you instituted, what have you done to make sure that persons in high position, like the President, will not get away with very big mistakes of this kind while the small people--those of us who pay small taxes--are being garnisheed and really dragged over the traces?

MR. ALEXANDER: Well, first, we think the second audit speaks for itself. The results of that audit are, of course, well known. The IRS has asserted that this particular taxpayer should pay 432,787 dollars and thirteen cents, plus interest, and the taxpayer has agreed to pay that amount. As far as procedures are concerned, the IRS selects returns for audit mainly on the basis of computer determinations. The IRS audits a large number--not large enough, in our judgment--of people in the United States, to try to assure those who do comply--the many who do comply--that the few who don't will be called upon to do so. Now we think in IRS that we can do this job effectively and fairly and even-handedly, and we think that we can and will audit those in high positions that deserve audits, as well as the ordinary taxpayer.

SHANAHAN: Commissioner, you say that your second audit of President Nixon's tax return speaks for itself. Yet, though you assessed a lot of money, the Joint Committee, which went over the same ground as IRS, throughout its lengthy report on the return, says that there are a number of points on which it never could get the information it needed from the White House. I think I have to assume that Internal Revenue didn't have that information either. Did you have it, or did you close that audit without having some important information?

MR. ALEXANDER: Eileen, we had sufficient information to reach the judgment that we reached, and we proceeded on the basis of the information that we had. And we think, as I stated, that that information was sufficient for us to act. Now in most audits, we obtain information sufficient to make a judgment, and frequently further information is obtained later if the taxpayer carries his or her case to our appeals procedures or to courts.

SCHORR: Mr. Alexander, you may have seen stories in the paper today of new testimony by Herbert Kalmbach to the Senate Watergate Committee in executive session, that the hundred thousand dollar Howard Hughes contribution that the President's friend, Charles Bebe Rebozo, had said he kept for almost three years in a safe deposit box and then returned intact to the Hughes organization, may not have stayed intact, but that instead--that some of the money may have been given to two of the President's brothers and to his secretary, Rose Mary Woods, for their personal use. I ask you about this, because the first one to investigate this contribution was the Internal Revenue Service. If my information is correct, you became aware of it in the course of investigating money that was coming out of a Hughes-owned casino in Las Vegas for political contributions, became aware of a hundred thousand dollars somewhere in--about May, 1972. If my information is further correct, it took almost a year--that is, until April, 1973--before any effort was made to question Mr. Rebozo about it, that the request to him did not come directly from the IRS, but through the White House, and that having interviewed Mr. Rebozo that your agent, Mr. Bartlett, told him that he was clean, that there was no problem for him. Is that question going to be reopened?

MR. ALEXANDER: Mr. Schorr, you're talking about an IRS investigation, and I can't and won't comment on an IRS investigation, or on the specific facts and allegations that you have mentioned.

SCHORR: Am I talking about a current IRS investigation? Am I talking about a--

MR. ALEXANDER: I can't comment further on this.

SCHORR: But when you say I'm talking about an IRS investigation, one that has been completed, or one that is in progress?

MR. ALEXANDER: I can't answer that question, Mr. Schorr.

HERMAN: Let me ask you a broader question that perhaps is sufficiently watered down that you can answer it. This several hundred thousand dollar mistake was made, I guess, by your predecessors in IRS. Are you now reviewing a whole bunch of other high-level personalities and a whole bunch of other high-paying tax personalities, to see if similar mistakes were made in the past on their returns?

MR. ALEXANDER: We're not looking for mistakes as such, Mr. Herman. What we're looking for in our audit policies and procedures, and with our audit personnel, is to see whether taxpayers in all walks of life, at all the income levels, but with emphasis on the higher income levels, as we've had in the past, are fulfilling their obligations. But we're making no drive as such to try to correct so-called errors of the past--whether real errors or what might be considered by some to be errors but aren't errors at all. What we're trying to do is make sure the people are meeting their obligations, and we intend to do that.

HERMAN: You came in as rather a new broom in the IRS, and you took a number of actions. Can you tell us whether you found, in looking over what had been done in the past, that there had been a pattern of being lenient or not very thorough in examining the returns of high personalities in government?

MR. ALEXANDER: I don't think there's any such pattern--

HERMAN: There was not?

MR. ALEXANDER: --nor do I think there has been any such pattern. Now as far as a specific taxpayer is concerned--the President--one of my predecessors, Mr. Caplin, made a statement the other day to the effect that Presidents' returns were accepted at face value unless there was an obvious error of some sort. So to that extent, we are plowing new ground. To that extent, we are, in the IRS, trying to make sure that all--whatever their station, whatever their stature--meet their tax obligation.

SHANAHAN: But have you in fact adopted any new procedures or safeguards, so that persons who have control over IRS--the President, the Secretary of the Treasury, perhaps the Commissioner himself--so that the underlings, the career people who audit their returns, won't be scared to push 'em where they ought to be pushed?

MR. ALEXANDER: I don't think the career people are scared or will be scared. I--

SHANAHAN: They were scared, or they wouldn't have given that slipshod eight-day audit to Mr. Nixon's tax returns just ten months ago.

MR. ALEXANDER: Not accepting your characterization of that audit, but as I stated earlier, I don't think that audit was thorough enough. I think we were plowing new ground then. We plowed that ground, and I think the IRS is perfectly capable in the future and at this time of meeting its obligations.

SCHORR: Let me ask you, sir, a more general question about these audits, in which I have a rather particular interest right now, since

I've just received word from your people that my returns for 1971 and '72 will be audited, something that was not done when the White House asked to have my returns audited as one on the enemies list. This question of presidential audits--one of the elements with regard to the President's gift of vice presidential papers--I don't know if it was in your report, which I haven't seen in detail, but in the Joint Tax Committee report--was, aside from the backdated deed, there were restrictions that were put on that gift. Now President Johnson also put restrictions on the gift that he made. There has been an attitude about presidential returns--there was a memorandum that John Ehrlichman wrote back in 1969 in which he said the President holds the view that a public man does very little of a personal nature; virtually all his entertainment and activity is related to his business.

All this is an overlong preliminary to asking you this question. Have Presidents in general, in the past, been treated too leniently, and are they going to be treated less leniently in the future?

MR. ALEXANDER: In answer to that question, I can repeat what I said earlier. On the basis of what one of my predecessors said--not on the basis of any personal knowledge of mine--but on the basis of what one of my predecessors said, apparently Presidents were treated quite leniently, and different from other people. On the basis of what has happened, and on the basis of the IRS bias toward professionalism, and toward doing its job right, I think the IRS is capable of seeing to it that all taxpayers, given their particular circumstances--some have larger incomes than others, some have larger deductions than others, some need audits more than others--are treated the same.

SCHORR: But you could be fired by the President. How can we be sure that you're in a position to treat with impartial even-handedness the one taxpayer who can fire you?

MR. ALEXANDER: Well, I think there are more than one--there's more than one taxpayer that can fire me. I suppose I can be fired by the Secretary of the Treasury as well. He's my immediate superior, and one of the finest people I've ever had the privilege of knowing.

HERMAN: How's his tax return?

MR. ALEXANDER: Certainly I can be fired by the President; I can be fired by the Secretary of the Treasury, and that's fine. I think that I'm going to do my best to do my job while I'm here, and I expect to stay here until 1977.

SHANAHAN: Commissioner, you have found that there was no basis for assessing a fraud penalty against the President. But somebody made a 400,000-dollar error on his returns--his lawyers and accountants, he says. Now at Internal Revenue, you're currently conducting a campaign to clean up the little fraudulent tax preparers, the people who charge you fifteen dollars and tell you to take your cat as a deduction--or whatever they do. What are you doing about at least negligence, I think, standing in the public record, and maybe fraud, that was perpetrated by somebody on the President's tax returns? Are these people who worked for him, whom he blames--he says I didn't know--are you going to take any action against them?

MR. ALEXANDER: Taking your three-part question, with the last part first, I can't comment on what action the IRS and others may be or may not be taking with respect to others. As far as the President is concerned, we believe, and have so stated, that there's no warrant for the assertion of the civil fraud penalty against this taxpayer.

As far as the negligence--addition to tax is concerned, I have no comment.

SCHORR: You have no comment? You mean that the question of negligence is still an open question?

MR. ALEXANDER: The IRS has asserted a total of 432,787 dollars, thirteen cents in additional tax. The President's announcement did not allocate those amounts among years or items. The IRS believes that all taxpayers, including this one, are entitled by law and by sound IRS practice to a basic right of taxpayer privacy, and we don't propose to go behind that.

SCHORR: I understand that's your general position. But when you started investigating the President's taxes, you announced that you were conducting the investigation because the White House waived that particular privacy. When you completed your investigation, the White House made a statement about it. In the past, the IRS, even though it maintains privacy, will respond if it's a matter of correcting the public record where something has been said by the taxpayer. The question has to be, since the White House has said that you found no fraud--civil fraud--presumably no criminal fraud--leaving open the question of negligence--the question has to be, did you find negligence?

MR. ALEXANDER: And the answer to that question is no comment.

SCHORR: Even though the White House has waived partly privacy--?

MR. ALEXANDER: The White House has issued a statement, and appropriately so. That statement, so far as this question is concerned, listed the aggregate amount plus interest that the IRS has asserted. It made no further breakdown of that aggregate. We don't propose to do so.

SCHORR: You mean, you leave the White House to say whatever it wants to say about your investigation? You won't do that if any other taxpayer chooses to make a statement about what you've been doing.

MR. ALEXANDER: Then I'm talking about a particular statement issued by a particular taxpayer. The statement, of course, is one that you are entirely familiar with, that I am entirely familiar with, then we're within the bounds of that statement, not a hypothetical statement. The IRS does have a policy, as you pointed out, of correcting the record, where correction is necessary, and only to the extent necessary, if and when any correction should be necessary to protect the integrity of the IRS, a correction would be made. No such correction is warranted at this time.

SCHORR: If the White House simply omitted the question of negligence and there were negligence that you had found, would that be something to require correction--an omission of that sort?

MR. ALEXANDER: I don't think so.

HERMAN: Commissioner, John Dean told the Senate Watergate Committee that President Nixon told him that one of the first things he wanted to do in his new administration was put somebody in IRS who would be more responsive to the White House. You were one of the first things the President did in his second administration. Did the President ever believe that you would be more responsive to White House pressures? Is that why he nominated you?

MR. ALEXANDER: I don't think the President believed that I would be more responsive to White House pressures. No such pressures have been exerted upon me, and the conversation that I had, and a brief one going through the receiving line at the White House one night with the President was his telling me to do this job well and to do it honestly, and that's what I've been trying to do.

HERMAN: Now, there's been a lot of testimony that the White House tried to bring pressure on IRS through various personalities in the White House--a lot of testimony before various committees. Senator Weicker says, and says he will testify about this in the week ahead of us, that the White House used IRS in effect as a lending library of information about people it favored and people it opposed. When you came in and looked around, did you find such a practice?

MR. ALEXANDER: No, I did not find such a practice. I think what Senator Weicker is probably referring to is the list of enemies and the list of friends. Dan Schorr was one of the enemies, as he pointed out. The treatment of friends and enemies has been carefully investigated, both by the IRS in an in-house investigation, and by the Joint Committee on Internal Revenue Service--

SHANAHAN: Excuse me, sir, the Joint Committee made clear it had investigated only the enemies, and the friends investigation, which is really much of what Senator Weicker is talking about, is yet to come.

MR. ALEXANDER: The friends investigation did come at that time, Eileen. Now, the Joint Committee did point out that certain things remained to be done, and it did ask the IRS to look further into the tax treatment of some of the friends, and to look further into the tax treatment or failure to do anything on the part of the

IRS. In the case of a number of the enemies, the IRS is doing just that and will report back to Joint Committee, but the treatment of friends as well as the treatment of enemies is covered by a document which of course you are entirely familiar with and I am also entirely familiar with.

HERMAN: Well, just let me pursue--you found no information that the IRS, for example, presented the White House with information on the returns of either friends or enemies?

MR. ALEXANDER: Some information was furnished to the White House but not in the quantities that you discussed, and there was no continuing pattern, as you indicated when I answered your prior question.

HERMAN: Well, can you spell out a little bit what was provided and how much? Was there information on the Reverend Billy Graham? Was there information--well, let's start one at a time.

MR. ALEXANDER: Well, I am not going to comment on specific taxpayers.

HERMAN: All right, was there a handful, ten or twelve reports?

MR. ALEXANDER: Certain sensitive case reports, in our sensitive case procedure that Eileen is familiar with, were apparently forwarded to the White House.

HERMAN: Properly or improperly?

MR. ALEXANDER: I think it was appropriate to do so; I don't do so because I think that that practice could well be capable of misconstruction at best, and I see no reason to do so, but certain information in the sensitive case reports was apparently forwarded to the White House and this was so found by Joint Committee.

SHANAHAN: Are you saying that you have abandoned the policy of sending information on any type of sensitive case--which in the past has generally meant people with political connections--to the White House? Have you stopped that?

MR. ALEXANDER: Eileen, I'm not going to state that there was such a policy. I am going to state that I don't send that information or any such information of that nature to the White House.

SHANAHAN: That no information about pending tax cases, IRS investigations or other cases now goes to the White House at all?

MR. ALEXANDER: I'm saying that I don't send any such information to the White House, nor to my knowledge, does anyone in IRS do so.

SHANAHAN: Does that--you're leaving out of that sentence that you send it to the Treasury, which in turn sends it to the White House.

MR. ALEXANDER: I keep the Secretary of the Treasury and the Deputy Secretary, who are my superiors, advised of what is happening in IRS when I think that they should be so advised. I advise them orally. I leave nothing with them.

SHANAHAN: Do you--is it your belief that some such sensitive cases through that channel do still go to the White House?

MR. ALEXANDER: I don't know whether the Secretary discusses matters of this nature with the White House. I would doubt that he would do so.

SCHORR: On another aspect of information sharing, the Senate Watergate Committee tried to arrange some cooperation with the Internal Revenue Service on a two-way basis, even got a resolution through that made it possible for them to turn over a lot of information to you, hoped they would get some information in return, have recently received a letter from you indicating that you don't feel in the position to extend the two-way cooperation in spite of the fact of having received a great deal of information from them. Can you explain that?

MR. ALEXANDER: Oh, I think that we have cooperated with that committee within the bounds of our authority, and I think we are cooperating with that committee. We have received information from that committee; we have aided that committee with our people and our information. Whether that aid was sufficient to fully satisfy certain members of the committee staff, can only be determined by the committee staff.

HERMAN: Commissioner, has the President asked for an extension on filing his 1973 return?

MR. ALEXANDER: I don't know, but I would expect that he would.

HERMAN: Can he--since this has been raised and I'm sure you're familiar with the case, that the tax for 1969, which is no longer legally required of him because of the statute of limitations--can that be fairly said now to be a gift to the government and therefore tax deductible?

MR. ALEXANDER: Well, this is a matter on which the IRS would perhaps be asked to rule in the future. An argument can be made that the payment of a tax like this barred by the statute of limitations is a gift to the government. I think a better argument can be made that such a payment is not deductible as a charitable contribution, because, of course, the taxpayer can file a claim for refund and get that payment back, so if the taxpayer has the right to recover a payment, it'shard to consider that payment subject to that right to recover to be a gift in the year the payment is made, and therefore deductible as a charitable contribution.

SCHORR: Unless he signed an affidavit waiving any possible return of the refund?

MR. ALEXANDER: I suppose an absolute waiver of that kind could be executed?

SCHORR: Wouldn't you have to acknowledge it as a gift? I think the definition of a charitable contribution includes words like disinterested generosity, and I've had one interpretation that it cannot be a gift unless the recipient of the gift acknowledges it as a gift. Wouldn't you then have to acknowledge that you received it as a gift?

MR. ALEXANDER: I'm not sure that an acknowledgement is required, any particular document or particular action is required, but I do think the running of the statute of limitations, or an effective waiver of the right to recover would be required.

SCHORR: So he may end up,as some, including myself have suggested, not having to pay any taxes for this current year, 1974, because of all the deductions resulting from his previous problems?

MR. ALEXANDER: That is possible; I think it's quite unlikely.

HERMAN: There is not much time left before April 15. Are the taxpayers grumbling to you about the Nixon story?

MR. ALEXANDER: Oh, taxpayers have grumbled. I've gotten quite a few letters--

HERMAN: On that specific subject?

MR. ALEXANDER: As to this specific subject, I've gotten quite a few letters, many of which have stated that we should be doing something or not doing something, some of which have stated that we're doing too much and suggested that I be sent in a cage to Hanoi. I think that the taxpayers' grumbling hasn't found its way into any lack of compliance by taxpayers. We're getting more returns, better returns, we're processing better, and the average refund is up, squarely in line with our predictions on the basis of economic factors.

HERMAN: Thank you very much, Mr. Alexander, for being with us today on Face the Nation.

ANNOUNCER: Today on FACE THE NATION, Donald Alexander, Commissioner of the Internal Revenue Service, was interviewed by
News
CBS/Correspondent Daniel Schorr, Eileen Shanahan, economics reporter of the New York Times, and CBS News Correspondent George Herman. Next week another prominent figure in the news will FACE THE NATION.