President's Tax Case Unprecedented

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Presidential tax returns have long received special handling, but the attention given President Nixon's returns—from the filing to the rugged congressional audit—appears to have no precedent.

Two Internal Revenue Service commissioners from the Kennedy-Johnson years, Mortimer M. CAplin and Sheldon S. Cohen, said yesterday that few, if any, Presidents have undergone audits, much less the massive inspection just completed by the IRS and a congressional committee staff.

Caplin said there is no known precedent for the first audit Mr. Nixon received from the IRS, which resulted in a letter of commendation "on the care shown in the prepara-an 1971.

The author of the letter, William D. Waters, was promoted recently from director of the district office in Baltimore to chief of the IRS regional headquarters in Philadelphia. But the congressional audit said Mr. Nixon now should pay back taxes of $110,048 for 1970 and $100,214 for 1971, and the IRS apparently agrees.

Caplin said the Waters letter was itself an indication of a possibly unique event, an audit of presidential taxes initiated within the IRS itself. It might not have been so surprising to have accepted Mr. Nixon's returns without calling for an audit, he said, but it was surprising to see such compliments after an audit of returns that raised so many questions.

Caplin, IRS commissioner from 1961 to 1964, said the general practice has been to accept a President's returns "at face value" unless they showed some "obvious" errors. He said he never saw any major discrepancies in the returns of John F. Kennedy or Lyndon B. Johnson. Cohen, commissioner from 1965 to 1969, said he never saw Mr. Johnson's returns.

Usually the President's returns were hand-delivered by a White House messenger, Caplin said, and the IRS has special security storage in one room for all the presidential returns since 1913, the first year of federal income taxation.

Both Caplin and Cohen said there was no precedent for the special services offered to Mr. Nixon by Roger Barth, assistant to former commissioner Randolph W. Thrower.

Recently disclosed communications with the White House show that Barth advised Nixon aides on such details as whether wages paid to Julie Nixon Eisenhower should be deducted as a business expense, and offered to render further such aid upon request.

Barth defended his role, saying White House tax inquiries showed that the President recognized that he was subject to the same laws as ordinary citizens. He added that members of Congress often get special IRS help with their tax questions.

Recalling that the President once said he had practiced considerable tax law, Cohen told the Women's National Democratic Club yesterday that Mr. Nixon and his aides had displayed "a shocking lack of competence, if nothing else."

Caplin said his own estimate of Mr. Nixon's tax bill, based on less information than was available to the auditors, had been in the $360,000 range, compared to the $467,000 Mr. Nixon now expects to pay in back taxes and interest.

Caplin's guess did not include such items as the congressional staff recommendation that Mr. Nixon declare as income $27,015 in family travel at government expense and $92,298 in personalized improvements to his San Clemente and Key Biscayne estates.

But Caplin noted that in one respect the staff may have opened up a new method of tax avoidance: Although disallowing claims of business deductions at Key Biscayne, the staff wolud permit depreciation on buildings there as "investment property."