

NIXON VALUATION OF PAPERS HALVED

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Outside Appraisers of I.R.S.
Find Pre-1969 Records
Not Worth \$576,000

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The Internal Revenue Service, as part of its audit of President Nixon's tax returns, employed independent appraisers who valued Mr. Nixon's pre-Presidential papers at less than half the \$576,000 claimed by the President's own appraiser.

This fact is contained in the report of the audit of Mr. Nixon's returns, of which the House Judiciary Committee has copies. It is debating whether to make them public.

According to committee sources, the audit report also contains other previously unpublished information concerning defects that the I.R.S. found in the tax returns, as originally filed, for the years 1969 through 1972.

The fact that the agency found the pre-Presidential papers greatly overvalued did not affect the amount of additional tax that Mr. Nixon was called upon to pay.

The reason was that Mr. Nixon's estate deduction for the gift of the papers to the National Archives was disallowed on the ground that it had not been made before Congress changed the law to prohibit such deductions.

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The Internal Revenue audit report, according to a committee source, goes into considerable detail about the lack of historical value of many of the donated papers.

For example, Mr. Nixon's appraiser, Ralph G. Newman of Chicago, declared that there were 15,000 items relating to the 1959 visit to the United States of Soviet Premier Nikita S. Khrushchev. The auditors found that there only one-tenth that many and that most consisted of newspaper clippings.

Mr. Newman has appraised the papers of many public figures, including those of former President Johnson.

Divisive Debate in Sight

The Judiciary Committee is reported to be headed toward a divisive debate over making the I.R.S. audit report public.

A Democratic member of the committee said that he had been told by a Republican member that Internal Revenue would oppose making the report public on the ground that President Nixon, like any taxpayer, was entitled to have his tax return kept confidential.

Burke W. Willsey, assistant to the I.R.S. Commissioner, Donald C. Alexander, said, however, that the agency was not taking sides in the dispute. He said that the I.R.S. had confined itself to "pointing to the regulations."

The regulation to which he said the agency had pointed, section 301.6103 (D)-1, provides that "any relevant or useful information" that has been properly obtained by a Congressional committee "may be submitted by the committee obtaining it to the Senate or the House or to both."

The argument that Mr. Nixon is entitled to some degree of privacy for his tax returns is nonetheless expected to be made by some members of the Judiciary Committee.

Charge Disrespect

Those who take the opposite view are expected to argue that Mr. Nixon has fostered disrespect for the Presidency by the size of his underpayments and the large number of different items that were disallowed. This, in itself, could be an impeachable offense in the eyes of committee members who take a broad view of what constitutes such an offense.

The Internal Revenue Service found that Mr. Nixon underpaid his taxes by more than \$400,000 during his first four years in office and assessed him a 5 per cent penalty for "negligence" in the preparation of his tax returns. Under the Tax Laws, a negligence penalty is assessed when there has been a knowing, but not willful, disregard of the law by the taxpayer.

The agency's action in obtaining an independent valuation of Mr. Nixon's pre-Presidential papers is a fairly standard one.

Gifts of many items whose value could be disputed appear as deductions on tax returns. For example, individuals give works of art to museums, universities or other recipients to whom any gift made qualifies as a tax deduction. Internal Revenue has a standing committee of experts whom it consults for an independent opinion of the value of such works of art.

Experts Called In

There is no regular standing committee that I.R.S. uses to evaluate historical papers, but it is standard practice for the office to call on outside experts, as needed, to help with valuation problems.

The I.R.S. art-valuation committee was established in the early 1960's after many disputes arose between the agency and taxpayers about valuations of works of art.

Officials of the service said that they could not say how common it was then or is now for a taxpayer to claim twice the value that the agency's experts subsequently established.

While Internal Revenue found that Mr. Nixon himself had not committed fraud in handling his tax returns, the agency referred to the special prosecutor, Leon Jaworski, the possibility that others had done so.

Among those named by the agency as possible participants in a fraudulent scheme on the President's behalf were Mr. Newman, the appraiser, two of Mr. Nixon's lawyers, Frank DeMarco Jr. and Herbert W. Kalmbach, and two former members of the White House staff, John D. Ehrlichman and Edward L. Morgan.

It had been assumed previously that the only issue of possible fraud that would be examined related to the issue of the date on which Mr. Nixon's gift of papers to the National Archives was actually made.

Although I.R.S. closed its audit on Mr. Nixon's returns without finding that he had committed fraud, there is no legal bar to an attempt by the special prosecutor to bring a fraud charge against the President. This is particularly true because Commissioner Alexander, in turning over the case to Mr. Jaworski, admitted that he had closed the case despite unresolved conflicts in the testimony of key witnesses.