

Nixon Tax Return Held Incorrect

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By Ronald Kessler

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President Nixon apparently underpaid his federal income taxes for his first four years in the White House by more than \$13,000—or 17 per cent of the \$78,651 he actually paid—because his returns were prepared in a manner described by the Internal Revenue Service and other tax authorities as improper under the law.

The underpayment occurred, according to a tax accountant who reviewed the President's tax returns for The Washington Post, because Mr. Nixon's accountant entered deductions for Mr. Nixon's business expenses on the wrong line on his returns.

The procedure, which involved stating the President's White House expense allowance as part of his gross income, made possible larger charitable deductions than Mr. Nixon otherwise would have been able to claim. This, in turn, lowered his taxes.

Presented a hypothetical case based on this procedure, an IRS spokesman agreed that the deductions had been made improperly under the law, and that the taxpayer had "no choice" but to make them another way, which would force him to pay higher taxes.

The possibility that Mr. Nixon underpaid his taxes because of incorrect filings would add a new issue to the growing controversy over Mr. Nixon's tax filings. In an effort to resolve previous tax issues, Mr. Nixon this month released copies of his returns, but that disclosure raised still more questions.

As a result, The Washington Post learned yesterday, the IRS, which last June said that Mr. Nixon's returns were correct, has now reopened its audit of his taxes. The agency, which is

See TAXES, A15, Col. 1

TAXES, From A1

understood to be embarrassed by the questions raised since last spring, has begun interviewing participants in some of Mr. Nixon's transactions that have been criticized.

Mr. Nixon has characterized the questions raised publicly so far as issues that can be disputed by accountants and lawyers. These issues include the deductions Mr. Nixon took for the gift of his vice presidential papers to the government and his sale of most of his San Clemente property to two friends.

However, tax experts classify the apparent incorrect preparation of Mr. Nixon's returns as a matter not open to the same kind of dispute.

The IRS spokesman said the Internal Revenue Code provides no options on the issue in question. The tax lawyer who wrote the law involved, Sheldon S. Cohen, who was IRS commissioner under President Johnson, said Mr. Nixon's returns as filed are "clearly wrong" on this count.

Cohen cited what he said was an example from IRS regulations covering Mr. Nixon's situation, which he said showed that Mr. Nixon would owe more taxes than he paid.

The accountant reviewing the President's returns for The Washington Post determined that the amounts Mr. Nixon should have paid, as against what he actually paid, were as follows:

Year	Should Have Paid	Actually Paid
1972	\$9,304	\$4,298
1971	4,175	878
1970	793	793
1969	77,613	72,682

A White House spokesman referred inquiries to Arthur Blech, the Los Angeles accountant who prepared Mr. Nixon's returns.

Blech said the returns were correct. The reason, he said, is that the \$50,000 expense allowance from which the White House has said Mr. Nixon has taken his official expenses is not an expense allowance. Instead, he said the allowance is an additional salary.

Mr. Nixon receives a \$200,000 salary and a \$50,000 payment described in the law as an expense allowance.

When told the law calls

the payment an expense allowance, and that the IRS and other experts say an expense allowance must be deducted from a line different from the one Blech used, Blech said, "I don't care what they say. It was handled correctly."

Blech expressed confidence that this and all other issues concerning Mr. Nixon's returns would be resolved in his favor by the Joint Committee on Internal Revenue Taxation, which is

reviewing Mr. Nixon's returns at the President's request.

Essentially the question of how the President's expense allowance was listed on his returns is important because of the way Mr. Nixon's accountant determined the maximum charitable contributions that he was allowed to deduct from his taxes. The more deductions a taxpayer takes, the lower his taxes are.

In Mr. Nixon's case, the charitable deductions available were unusually large because of his gift of vice presidential papers to the government. This gift alone produced possible deductions of \$570,000, spread over several years, some of which have yet to be taken.

However, the IRS places a limit on the total charitable contributions that can be

Form **1040** US Department of the Treasury / Internal Revenue Service **1972**
Individual Income Tax Return

For the year January 1-December 31, 1972, or other taxable year beginning 1972, ending 1972, ending 1972

First name and initial (if joint return, use first names and middle initials of both) **Richard M. and Patricia R. Nixon** Last name **Nixon**
 Your social security number (husband's, if joint return) **567 68 0515**
 Present home address (Number and street, including apartment number, or rural route) **The White House**
 City, town or post office, State and ZIP code **Washington D. C. 20500**
 Occupation **President of the United States**

Filing Status—check only one:
 1 Single
 2 Married filing joint return (even if only one had income)
 3 Married filing separately. If wife (husband) is also filing give her (his) social security number and first name here.
 4 Unmarried Head of Household
 5 Widow(er) with dependent child (Enter year of death of husband (wife) ▶ 19)

Exemptions
 Regular / 65 or over / Blind Enter number of boxes checked
 6 Yourself **2**
 7 Wife (husband)
 8 First names of your dependent children who lived with you _____
 9 Number of other dependents (from line 32) Enter number ▶ _____
 10 Total exemptions claimed **2**

Income
 11 Wages, salaries, tips, and other employee compensation. (Attach Form W-2 to front. If unavailable, attach explanation) ▶ 11 **20000 00**
 12a Dividends (see pages 6 and 13 or instr.) \$ _____ 12b Less exclusion \$ _____ Balance ▶ 12c _____
 (If gross dividends and other distributions are over \$200, list in Part I of Schedule B.)
 13 Interest income. [If \$200 or less, enter total without listing in Schedule B.] ▶ 13 **16997 94**
 (If over \$200, enter total and list in Part II of Schedule B.)
 14 Income other than wages, dividends, and interest (from line 45) ▶ 14 **2424 60**
 15 Total (add lines 11, 12c, 13 and 14) ▶ 15 **208777 54**
 16 Adjustments to income (such as "sick pay," moving expenses, etc. from line 50) ▶ 16 _____
 17 Subtract line 16 from line 15 (adjusted gross income) ▶ 17 **208777 54**

Caution: If you have unearned income and you could be claimed as a dependent on your parent's return, see boxed instruction on page 7, under the heading, "Tax-Credits-Payments." Check this block . If you do not itemize deductions and line 17 is under \$10,000, find tax in Tables and enter on line 18. If you itemize deductions or line 17 is \$10,000 or more, go to line 51 to figure tax.

Tax, Payments and Credits
 18 Tax, check if from: Tax Tables 1-12, Schedule D Tax Rate Schedule X, Y, or Z Schedule G or Form 4726
 18 **4298 17**
 19 Total credits (from line 61) ▶ 19 _____
 20 Income tax (subtract line 19 from line 18) ▶ 20 **4298 17**
 21 Other taxes (from line 67) ▶ 21 _____
 22 Total (add lines 20 and 21) ▶ 22 **4298 17**
 23 Total Federal income tax withheld (attach Forms W-2 or W-2P to front) ▶ 23 **86030 40**
 24 1972 Estimated tax payments (include amount allowed as credit from 1971 return) ▶ 24 **1000 00**
 25 Amount paid with Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return ▶ 25 _____
 26 Other payments (from line 71) ▶ 26 _____
 27 Total (add lines 23, 24, 25, and 26) ▶ 27 **87030 40**

Bal. Due or Refund
 28 If line 22 is larger than line 27, enter BALANCE DUE IRS. Pay in full with return. Make check or money order payable to Internal Revenue Service. ▶ 28 _____
 29 If line 27 is larger than line 22, enter amount OVERPAID ▶ 29 **82732 73**
 30 Line 29 to be REFUNDED TO YOU ▶ 30 **81732 73**
 31 Line 29 to be credited on 1973 estimated tax **100000 00**

Foreign Accounts
 Did you, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country (except in a U.S. military banking facility operated by a U.S. financial institution)?
 If "Yes," attach Form 4683. (For definitions, see Form 4683.) Yes No

Note: Be sure to complete Revenue Sharing (lines 33 and 34) on next page.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which the preparer has knowledge.
 Your signature *Richard M. Nixon* Date **4/4/73**
 Patricia R. Nixon
 Arthur Elech & Company
 Certified Public Accountants
 415-7801717
 1972

Arrow at line 16 shows spot where, according to Internal Revenue Service and other tax experts, Mr. Nixon's business expenses should have been entered.

claimed. In most of Mr. Nixon's years in the White House, the limit was 50 per cent of a taxpayer's "adjusted gross income."

The definition of this term is crucial. If the term is defined to include items—like Mr. Nixon's expense allowance—that would raise a taxpayer's adjusted gross income, his deductions, after the 50 per cent limit is applied, would be higher. If, on the other hand, the income figure is lower, the deductions allowed would be lower.

Federal tax forms, the instructions accompanying them, and the law governing

them say that to arrive at adjusted gross income, a taxpayer must deduct from his gross income such items as moving expenses and other expenditures for which an employee is reimbursed through an expense account or allowance by his employer.

These deductions must be made on a particular line on the tax return. If they are not entered on that line, a taxpayer's adjusted gross income comes out higher, and a taxpayer subject to the 50 per cent charitable limitation ends up paying less in taxes.

Mr. Nixon's returns show

these deductions were not entered on the line in question. Instead, they were inserted later in the return. The result was that Mr. Nixon's adjusted gross income figure came out higher, and he was allowed more charitable deductions as a result.

Blech, Mr. Nixon's accountant, agreed that if the expenses in question were reimbursed by an expense allowance, Blech would have been required to enter them on the appropriate line.

But Blech contended that the \$50,000 expense allowance that Mr. Nixon received in addition to his \$200,000 a year salary is not an expense allowance.

An aide on the House Ap-

ropriations subcommittee with jurisdiction over the White House budget said yesterday that the law and the intent of Congress "could hardly make it clearer" that the \$50,000 payment is an expense allowance, not a salary.

A spokesman for the General Accounting Office, the investigative arm of Congress, also said the payment is for expenses rather than salary.

Jonathan Sobeloff, a professor of tax law at Georgetown University Law School, after reviewing Mr. Nixon's returns, called Blech's claim that the expense allowance was not an expense allowance "awfully peculiar."

These and other authorities said this does not mean that Mr. Nixon cannot keep any part of the payment he does not need for expenses. They said such an expense arrangement is not uncommon among private employers.

Under the concept, the employer, rather than reimbursing employees for each taxi fare or entertainment expense he incurs, makes a lump sum payment to be used for expenses. If the employee does not have enough expenses to use up the allowance, he may keep the excess, provided he pays taxes on the remainder on his federal tax returns.

Mr. Nixon's tax returns show that in his first four years in office, his official business expenses in each year amounted to less than the \$50,000 allowance given him for each year. In 1972, for example, Mr. Nixon had expenses of \$28,541 for maintenance of offices at his San Clemente and Florida homes and other items. These expenses left Mr. Nixon with a balance of about \$20,000 that he retained from his expense allowance.