

IRS Chief Asks Curb on White House

8/11/74
By Bob Kuttner

Washington Post Staff Writer

Internal Revenue Commissioner Donald C. Alexander said yesterday that the law permitting White House access to tax returns is inadequate to prevent future abuses, and he urged Congress to tighten the law.

Testifying before a Senate Judiciary subcommittee, Alexander told Chairman Edward M. Kennedy (D-Mass.) that his recommendation for legislation to limit presidential access to tax returns is awaiting the approval of the Treasury Department and the Office of Management and Budget. "Under present law, there is no legal safeguard against abuse," he testified.

Alexander disclosed that he has informally requested the White House to make any requests for tax information in writing to the commissioner personally; however, this policy lacks the force of law.

The Senate Watergate committee's final report recommended tighter control over White House-IRS relations. Specifically, the committee urged that no White House official, including the

President, should be able to get raw tax files.

The Senate July 18 approved an amendment by Lowell Weicker (R-Conn.) barring any executive branch official from looking at tax returns, except upon the President's written request. A similar proposal is pending before the House Ways and Means Committee.

Also, the congressional Joint Committee on Internal Revenue Taxation is investigating improper disclosures of tax information by IRS officials to the White House.

But legal opinions dating back to 1961 indicate that the IRS considered any White House request to be proper. One memorandum written by President Kennedy's tax commissioner, Mortimer Caplin, in May, 1961, concluded that the tax code permits the White House to see the return of any taxpayer.

That view was reaffirmed by IRS lawyers in both the Johnson and Nixon administrations.

According to former Assistant IRS Commissioner Vernon (Mike) Acree, whom White House investigator



DONALD C. ALEXANDER
... seeks safeguard

Jack Caulfield identified as his main source of tax information, the IRS employed increasingly casual procedures for passing tax records to the White House beginning in the early '60s.

Acree said in an interview that the arrangements were "pretty much ad hoc." He said Caulfield got much of his information over the phone. "He didn't have to say, 'The President is considering appointing John

Doe Secretary of the Navy.' He just said, 'We need this.'"

There were no written procedures, Acree added. "Other representatives of other administrations sat in my office and read tax returns. It was routine."

According to other former IRS officials, the Nixon White House blurred the distinction between tax checks on potential appointees, which usually involve only a report on whether the individual has any tax problems, and the general provision in the law permitting the President to examine tax returns.

Commissioner Alexander told the Senate subcommittee yesterday that the IRS is continuing to make routine tax checks of prospective appointees, at the rate of about a thousand a year, but that there have been no recent requests for actual tax returns.

He also disclosed that the IRS has "partially suspended" the list of sensitive cases, another source of White House tax information. In the past, any celebrity with tax problems appeared on the sensitive case list, which was supplied to

Access to Tax Data

the Treasury Secretary and often to the White House. It was that list which apparently tipped off John D. Ehrlichman that Alabama Gov. George C. Wallace's brother was under investigation, and led to a news leak.

Alexander told the panel that the list no longer circulates outside the IRS, and that it is being modified to include only cases that are not worthy in terms of tax administration rather than the identity of the taxpayer.

Reviewing other IRS policies designed to reconcile the conflicting principles of taxpayer confidentiality and freedom of information, Commissioner Alexander announced a reversal of longstanding IRS practice keeping private tax rulings confidential.

The rulings, which are issued on request to about 30,000 individual and corporate taxpayers yearly, have been criticized as "secret law." Last year, a public interest law firm, Tax Analysts and Advocates, won a U.S. District Court decision requiring private tax rulings to be disclosed under the Freedom of Information Act.

That case, which affects existing rulings, was appealed by the IRS. The new policy applies only to future rulings. Alexander said the IRS would ask taxpayers requesting rulings to waive their rights to confidentiality so that the IRS could make the rulings public.
