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I.R.S. RE-EXAMINES  
RETURNS OF NIXON;  
WON'T SAY WHICH

Tax Service Is Authorized  
by President to Disclose  
Audit Is Being Made

KEY QUESTION REMAINS

It Is Not Known if Agency  
Will Look Into the Gift of  
Vice-Presidential Data

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WASHINGTON, Jan. 2—The Internal Revenue Service announced today that it was "re-examining" President Nixon's tax returns, but it would not say which ones.

Ordinarily, the revenue service does not disclose that it is auditing, or reauditing, any individual unless a court case develops out of a dispute between the taxpayer and the agency.

In this instance, however, the revenue service was authorized by Mr. Nixon to announce that the re-examination was being made. The person who transmitted the authorization to the revenue service was Kenneth A. Gemmill, a private tax lawyer from Philadelphia who worked on the Nixon financial statements that were made public last month.

'An Ordinary Case'

Revenue service officials refused to discuss most aspects of the re-examination. The reason for this, according to Burke W. Willsey, assistant to Internal Revenue Commissioner Donald C. Alexander, said, "We want to keep this case as much like an ordinary case as possible."

He said that he interpreted Mr. Gemmill's authorization to mean that the agency could announce no more than the simple fact that some of Mr. Nixon's returns were being audited a second time.

Ordinarily, when the revenue service re-examines a return that has already been audited, it looks only at that return and other returns previously audited, plus any more recent re-

turns that have been filed.

If that is the procedure, that is being followed this time, Mr. Nixon's returns for 1970, 1971 and 1972 would be examined. His returns for 1970 and 1971 were audited in May, 1973, in a procedure that consumed only eight days, from start to finish—an unusually brief time.

A Question Unanswered

The revenue service's refusal to detail what its re-examination involved left unanswered the key question of whether Mr. Nixon's tax return for 1969 would be looked at. That was the year in which, he said, he made a gift to the National Archives of Vice-Presidential papers valued at \$576,000. Whether the gift was made before July 25, 1969, the effective date of a statutory change prohibiting tax deductions for such gifts, is in dispute.

Other aspects of Mr. Nixon's tax returns that have aroused controversy include his failure to report what his own auditors believe was a taxable capital gain on the sale of some land in San Clemente, Calif., in 1970. Questions have also been raised about the deductions that Mr. Nixon took for use of his Key Biscayne, Fla., and San Clemente residences as offices.

Mr. Nixon, in December, asked the Congressional Joint Committee on Internal Revenue Taxation to decide whether his actions regarding the deduction for the papers and the land sale were proper. The President said that he would pay any delinquent taxes that the joint committee decided he owed.

The joint committee decided

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that it would not limit itself to the two items specified by the President but would, instead, examine all aspects of Mr. Nixon's tax returns for the first four years of his Presidency.

There was considerable public criticism of the assignment of the task of reviewing Mr. Nixon's tax returns to the joint committee rather than to the revenue service, which has statutory responsibility for such matters.

The criticism was reflected in today's announcement, made jointly by the revenue service and the joint committee.

The announcement noted that "questions have been raised in the press as to the relationship of the consideration of the President's tax returns" by the joint committee and the revenue service.

In addition to the press criti-

cism, the service has also received a flood of mail from the public demanding that it take a new look at the President's returns, it was learned.

The joint announcement also said that the committee and the agency were making arrangements for "an exchange of information." They will not undertake a joint inquiry, however.

The announcement said, "The representatives of the President are cooperating fully with the joint committee staff and Internal Revenue Service."

Mr. Nixon's tax returns for 1970 and 1971 were originally gone over by two senior career agents in the revenue service district office in Baltimore, which handles audits of individuals who live in Washington.

New Agents Expected

Mr. Willsey said that different agents were always assigned to a re-examination of a return but would not say much else about who would handle this re-examination. He said that he would expect the new agents on the case to be high-ranking career agents but would not say whether they would be from the Baltimore office, which would normally be the case.

Although Mr. Nixon has said that he would pay any additional tax the joint committee says he owes, the revenue service could not legally assess additional tax for 1969 unless it found that there was fraud in the President's tax return for that year.

The statute of limitations for nonfraudulent underpayment of Federal income tax is three years from the due date of the return, which is April 15, 1970, for the 1969 return. However, there is no statute of limitations for civil fraud on a tax return.

Even if the revenue service believed that there was no possibility of fraud in the president's 1969 return tax return, at the roots of any transaction it would not be barred from that is still affecting the tax-re-examining that return, how-payer's returns for years on which the statute of limitations has not yet run.