

New IRS Probe of Nixon Reported

Longer version
filed 1/21/76.

Washington

The Internal Revenue Service is investigating former President Nixon for civil tax fraud, according to informed sources.

The IRS concluded in March, 1974, that it did not have sufficient evidence to charge Mr. Nixon with civil tax fraud, but has reopened its investigation and now believes it can show that the former President had knowledge of a backdated deed claiming an

illegal deduction for his gift of papers to the government, the sources said.

If fraud is charged against Mr. Nixon, the former president could be forced to pay \$222,121.45, which would be \$148,080.97 for a 1969 tax deficiency found by the IRS in 1974 plus a 50 per cent penalty for fraud of \$74,040.48.

Mr. Nixon had no legal obligation to pay the 1969 tax deficiency because the three-year

statute of limitations had expired. However, fraud has no statute of limitations and, if charged, makes the basic tax deficiency collectible at any time.

Mr. Nixon could challenge a fraud assessment in court.

In 1974, Mr. Nixon paid \$284,706.16 in tax deficiencies and negligence penalties for his 1970-72 tax returns. He said he would pay the 1969 deficiency but has

Back Page Col. 4

From Page 1

not, according to sources.

President Ford's pardon of Mr. Nixon covers only criminal matters and would not apply to civil tax fraud.

Spokesman for Mr. Nixon and the IRS declined comment yesterday on the current investigation.

The IRS deposition in 1974 that concluded there was not sufficient evidence to charge Mr. Nixon with civil tax fraud was made before several key witnesses testified under oath.

Since then IRS investigators believe they have gathered enough evidence to pin-point Mr. Nixon's role in the backdating of the deed.

According to the public record, Mr. Nixon's vice-presidential papers were not donated until April, 1970, nearly nine months after a tax reform act took effect eliminating the charitable deduction on papers donated after July 25, 1969.

The investigators say they have evidence that Mr. Nixon instructed his aides to lobby

against the act.

Mr. Nixon, however, signed the act into law on Dec. 30, 1969.

The sources said that the IRS can build a case showing Mr. Nixon knew he was taking a deduction no longer permitted by law when the backdated deed was submitted to the National Archives in April, 1970.

Others have been prosecuted for handling Mr. Nixon's taxes.

Former White House aide Edward L. Morgan, who signed the backdated deed, pleaded guilty of tax fraud conspiracy on Nov. 8, 1974. Literary appraiser Ralph G. Newman was convicted on Nov. 12, 1975, of two counts of providing false information to the IRS in connection with the Nixon papers.

Civil tax fraud is a very difficult civil case to prove. The standard of proof is less than a criminal case and more than in normal civil cases.

According to the IRS code, "Clear and convincing evidence is necessary in order to prevail on the fraud issue. Clear and con-

vincing evidence need not be beyond a reasonable doubt (as in criminal cases), but must be stronger than mere preponderance of evidence (as in most civil cases)."

In a matter related to Mr. Nixon's taxes but apparently not known to federal investigators, reliable sources said recently that Mr. Nixon tried to halt the initial IRS audit of his tax returns.

This attempt was in May, 1973, while Mr. Nixon was President but before his taxes became a public issue.

At that time, according to the sources, Mr. Nixon was informed that his tax returns had been computer selected for audit because of the large deduction he had for his vice-presidential papers.

Mr. Nixon felt he was being picked on by the IRS and insisted that the IRS should not audit him unless it had audited past presidents.

Mr. Nixon was furious and ordered White House Chief of Staff Alexander M. Haig Jr. to

call George P. Shultz who, as treasury secretary, was in charge of the IRS.

"What in the hell is this?" Haig reportedly asked Shultz. "The President of the United States being audited?"

Shultz told Haig that the IRS could not avoid doing an audit because of the large deduction.

Haig, according to the sources, then had Shultz prepare a report on IRS treatment of past presidents.

According to the sources, the report showed that all presidents back to Franklin D. Roosevelt had their tax returns audited and at least one paid an adjustment in excess of \$100,000.

Shultz gave the details to Haig who relayed the information to Mr. Nixon.

After that, the IRS proceeded with the first audit of Mr. Nixon's taxes.

According to law, the President is supposed to be treated like any other tax payer.