

IRS Won't Name Nixon Auditor

By Cathe Wolhowe

Washington Post Staff Writer

Internal Revenue Service Commissioner Donald C. Alexander disclosed yesterday that he would not name an independent auditor to examine the validity of President Nixon's \$570,000 tax deduction for his 1969 gift of vice presidential papers.

Six weeks ago, J. Walter Feigenbaum, director of general litigation in the IRS chief counsel's office, acknowledged that his office was considering the appointment of such an auditor.

But yesterday Commissioner Alexander said that he had been informed by the IRS chief counsel's office that he lacks legal authority to appoint an independent auditor to examine the returns of any taxpayer.

The suggestion for the naming of an independent

auditor came from Tax Analysts and Advocates, a public interest tax law firm that has challenged the validity of the gift.

The tax firm questioned whether the gift was transferred and formally accepted by the General Services Administration before July 25, 1969, the date the new tax reform act went into effect. Under the new law, the value of the papers was substantially less because it was to be determined by the paper cost rather than the collector's price.

Although Alexander offered no legal citations for his decision, the tax firm's executive director, Thomas F. Field, said he had been told by the IRS chief counsel's office that the chief concern was that the privacy of tax returns is guaranteed by law.

"I see nothing in that law to block audit by a person of recognized independence who is entitled, under law, to have access to the relevant documents," Field said. "Access to the President's tax returns is hardly necessary to evaluate the validity of the President's paper deduction; the salient facts relating to that question are already in the public domain."

If the IRS refuses to reconsider the naming of an independent auditor, Field said the IRS should devise another method to resolve the question "in a way that is perceived by the public to be fair and impartial."

Feigenbaum refused to say whether the IRS was considering other alternatives to resolve the issue.

Questions about the validity of the gift were raised last spring when The Washington Post disclosed that

the President's personal tax attorney, Frank DeMarco Jr., said that he followed markedly different procedures for the 1969 gift than for previous presidential gifts.

DeMarco, a partner in the California firm of Kalmbach, DeMarco, Knapp and Chillingsworth, said the President's signature on the deed of gift was unnecessary in 1969, although he had signed a deed for a gift of other papers in 1968. Presidents Eisenhower and Johnson also presented their gifts in previous years with formally signed deeds.

To DeMarco, the 1969 gift became formal when the papers were received by the Archives on March 27, 1969. Although the deed is dated the same day, DeMarco acknowledged last spring that it was not delivered to the Archives until sometime in April, 1970.