

Hill Request for IRS Papers Rejected

By Morton Mintz

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Treasury Secretary George P. Shultz has rejected a request from Capitol Hill to supply documents on a 1972 Internal Revenue Service decision to allow large election-campaign contributors to avoid capital-gains taxes.

The Joint Economic Committee asked Shultz when he testified Aug. 2 for IRS and Treasury "memoranda and records" of conversations on policy concerning the issue.

Schultz refused to supply the papers on the ground that the Freedom of Information Act exempts "intra-agency memoranda" from public disclosure.

But committee member Henry S. Reuss (D-Wis.) said yesterday that the law specifically does not exempt disclosure to Congress. Moreover, he charged, Schultz's refusal is "a square violation of President Nixon's own anti-secrecy procedure."

The IRS decision was that taxes are not owed on gifts of stock that appreciate in value between the time a contributor acquires them and the time they are sold by a political committee.

In contrast, the IRS re-

quires payment of capital-gains taxes from a person who gives stock that has appreciated in value to, say, a son or a daughter.

The presidential campaign organizations of both parties favored the ruling, as well as a related one exempting large contributors from gift taxes so long as their gifts are divided among multiple committees, even though the committees are paper organizations supporting the same candidate.

However, the Finance Committee to Re-elect the President was the principal beneficiary because it collected about \$60 million for the nomination and election of Mr. Nixon—roughly double the sum raised by his rival, Sen. George McGovern (D-S.D.).

The Nixon committees raised about \$20 million in appreciated stocks, compared with about \$1 million raised by the Democrats, Reuss said.

Finance committee chairman Maurice H. Stans contacted the office of then White House Counsel John W. Dean III for advice on both the capital-gains and gift-tax issues.

It was never made explicitly clear why Stans would go to the White House on a supposedly apolitical Treasury issue.

The speculation, however, has been that he wanted the clout of a White House paper to pressure Treasury.

In a letter to Stans on Feb. 25, 1972, Fred F. Fielding, an aide to Dean, told of a memo—"prepared in response to inquiries and requests from your staff"—that interpreted the tax laws to approve of the multiple-committee device for the avoidance of gift taxes.

Fielding said his memo "does not make reference to contributions of stock, which will be the subject of a separate memorandum we are preparing."

Until 1972, the IRS had held several times that campaign committees were not exempt from taxes on capital gains and other income, Reuss said.

But after Stans enlisted the White House, GOP fund-raisers solicited gifts of appreciated stocks with assurances to potential donors that they would not have to pay capital gains, Reuss said.

The Wall Street Journal publicized the issue in an article on Sept. 27, 1972. Six days later, Reuss said, the IRS began issuing "ambiguous" press releases and engaged in other activities finally culminating last Aug. 1 in a "policy guide-

line" exempting most 1972 capital gains.

The use of the Freedom of Information Act to withhold data from Congress has long since been repudiated by experts on the legislation, including its authors. Reuss termed Shultz's invocation of the law a "red herring."

The congressman said the secretary violated a memo of March 28, 1969, in which President Nixon said that only he, not a member of the Cabinet, can withhold information from Congress—and then "only in the most compelling circumstances and after a rigorous inquiry into the actual need for its exercise."

If Shultz "really is reluctant to release the documents, let him ask the President to seek executive privilege," as he has done in various "unsavory proceedings," Reuss said.