

NIXON REVEALS FINANCIAL FILE, ASKS CONGRESS TO DECIDE PANEL IF HE OWES \$267,000 MORE IN TAX

President Agrees to Abide By Committee's Judgment

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WASHINGTON, Dec. 8—The White House conceded today that there were serious questions about the legality of two separate aspects of President Nixon's recent tax returns and said that he and Mrs. Nixon might owe as much as \$267,000 in additional Federal income tax if both of his original contentions were reversed.

Mr. Nixon, in a move believed to be without precedent, announced that he would let the Congressional Joint Committee on Internal Revenue Taxation decide whether he should pay any additional tax because of the two disputed items.

"I will abide by the committee's judgment," he said in a written statement.

Wilbur D. Mills of Arkansas, chairman of the Joint Committee, said Mr. Nixon asked him, in a brief telephone conversation on Thursday, to take on the job, and that he agreed. He said that he did not yet know how the committee would proceed and could not guess whether it would hold public hearings.

The Joint Committee is made up of the five senior members—three Democrats and two Republicans—of the House Ways and Means Committee and the Senate Finance Committee. A majority of the members are conservative.

The documents concerning the President's finances that were made public by the White House today showed that one of his own accountants believed he should have paid a capital gains tax on the sale, in 1970, of land adjacent to his oceanside house in San Clemente, Calif.

It was the better known of his two accountants, the big firm of Coopers and Lybrand of New York, that took this position. The Los Angeles accountant who has been handling his tax returns, Arthur Blech, held that he owed no capital gains tax.

The other main item in dis-

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pute concerns the deduction of \$576,000 that Mr. Nixon has claimed for his donation of his pre-Presidential papers to the National Archives. Tax Analysts and Advocates, a public interest law firm, has charged that the gift was not made before July 25, 1969—the effective date of legislation that disallowed such deductions.

Backdating Charged

There have been some charges that Mr. Nixon's lawyers backdated some of the documents connected with the gifts.

The documents also disclosed the following:

President and Mrs. Nixon had a total adjusted gross income of \$1,122,264 during the four years 1969-72, or an average of \$280,556 a year. On that income, Mr. Nixon paid a total of \$78,650 in Federal income tax, an annual average of \$19,662, which is about the amount that would ordinarily be paid by a family with an income of \$67,000, or one-quarter of what the Nixons had.

In the three most recent years, 1970, 1971 and 1973, the Nixons paid \$792.81, \$878.03 and \$4,298.17 respectively, in Federal income taxes. For the first of these years, the sum was about what would be paid by a family with an income of \$7,500; for the second, an income of \$8,500, and for the third, an income of \$25,000. Averaged over the three years, the taxes were about what a \$15,000-a-year family would pay.

The charitable contributions made by the President and Mrs. Nixon, other than the disputed pre-Presidential papers, were as low as \$295 in 1972 and averaged out to \$3,370 over the four-year period, or about half of what the typical taxpayer in the \$100,000-to-\$200,000 bracket gives.

Mr. Nixon has defended the relatively small amounts of tax that he paid on the ground that his taxes for 1971 and 1972 had been audited by Internal Revenue and accepted as filed.

The White House made public the names of the two "supervising agents" who conducted the audit, Raymond E. Kuschke and Gervasio S. Percuoco, both of whom are career employees of I.R.S.

The documents and some details of the audits that were

given in a White House briefing for the press showed that the audit took only eight days, from the time Mr. Nixon's accountant, Mr. Blech, and his lawyer, Frank Demarco, a partner of Herbert W. Kalmbach, came into I.R.S. until the date of the letter from I.R.S. accepting the returns as filed.

The individuals who conducted the briefing would not permit themselves to be identified by name by the press. One of them said that the audit was of a type known as a "Taxpayer Compliance Audit," which, he said, was the strictest kind that Internal Revenue does and requires that every item of income and deductions are checked.

'Out of Ordinary'

Sheldon S. Cohen, who was Commissioner of Internal Revenue in the Johnson Administration, said that completion of such an audit in eight days would be "extremely out of the ordinary."

"I don't believe you could do this kind of audit in a few days," he said.

The White House sources said that the audit was ordered, in early May of this year, when Internal Revenue's computer flagged the Nixons' tax return as one that showed an unusually low tax and an unusually high refund.

The refunds were \$72,614 in 1970, \$58,889 in 1971 and \$81,732 in 1972.

The White House sources offered no explanation of why the computer had not flagged the 1970 return, or why the audit did not extend back into 1970, which would have been within the statute of limitations.

The White House sources said that the disputed deed, whereby Mr. Nixon gave his pre-Presidential papers to the National Archives, had been examined by the auditors.

But apparently no other questions were raised about the gift, because the first public challenge of its authenticity was not made until June 10, by which time the audit had been completed.

Among the many questions that have been raised about the donation are why Mr. Nixon did not himself sign the deed; whether the White House lawyer who did sign it, Edward L. Morgan, had the legal authority to do so; whether the notarization of the date of the deed is valid, in the apparent absence of some corroborating records required by California law, and whether the designation of the papers given, out of a much larger batch of papers being stored by the Government, was made before the deadline in the 1969 law.

In all, President and Mrs.

Nixon have deducted \$482,018 from their income taxes, in the years 1969-1972, because of the gift of the papers. They still have \$93,982 left out of the total appraised value. That they could deduct on the 1973 return. The since-repealed law governing such donations permitted the deduction to be spread over five years, in addition to the year of the gift.

Taxes May Be Owed

If the Joint Committee decides that the gift was not legally made before the July, 1969, cutoff date, the Nixons will owe a total of \$235,000 in Federal income taxes for the years 1969-1972, the White House sources said.

And \$32,000 additional will be owed if the Joint Committee decides that the Nixons should have declared a taxable capital gain on the sale of the land adjacent to their San Clemente estate.

Coopers and Lybrand, the accounting firm that did the audit of the Nixons' financial condition that was published in August, expressed the view that Mr. Nixon's tax returns were incorrect, with respect to this sale, in two separate ways. The Coopers and Lybrand opinion was contained in a footnote to the firm's audit that was not part of the material previously made public.

The accounting firm, first of all, appeared to have made its own appraisal of the original worth of the land that the Nixons sold to an investment company consisting of Mr. Nixon's friends, Robert H. Abplanalp and Charles G. Rebozo. On that basis, the accounting firm determined that there had been a capital gain of \$117,370 on the sale.

The land that was sold was part of a larger parcel, part of which the Nixons retained, along with their house. Thus, there was some problem in deciding how to allocate the original cost of the property between the land that the Nixons kept, along with the house, and the land that they sold.

The White House documents do not show how Mr. Blech made his determination that there was no taxable gain on the transaction, but, instead, seem to indicate that he worked backward from the sale price to an original valuation.

As for the other defect that Coopers and Lybrand reported, that related to a provision of the tax laws that makes the capital gains on a residence tax-exempt, providing the money is reinvested in another residence within the year.

Coopers and Lybrand said that the President's accounts had misallocated the gain from the sale of the Nixon's Fifth Avenue New York cooperative apartment in such a way as to understate the gain on the sale of the San Clemente land.

No Figure Given

Coopers and Lybrand did not give a figure for this aspect of the understatement of the gain,

but the formula the firm appeared to suggest would produce a gain of about \$116,000. Thus, the total gain that Coopers and Lybrand believed should have been declared amounted to about \$130,000.

Another point at which the White House sources appear to

be in contact with other authorities concerns the payment of California income taxes by the Nixons.

Mr. Nixon has not paid them, because he claims residence in

the District of Columbia for income tax purposes. The District of Columbia law explicitly exempts Federal officials from the local income tax.