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Nixon and the Tax Laws

Disclosure of His Returns Raises Questions About Use of Legislation

By EILEEN SHANAHAN

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WASHINGTON, Dec. 10—Disclosure by President Nixon of his tax returns for the last four years has highlighted two quite different questions about the tax laws and the way he has used them.

The first, which has received the main attention in recent days, is whether the President actually broke the law, as some have alleged—by failing to report a capital gain that he should have paid a tax on, or by taking a big deduction that he was not entitled to, or both.

News Analysis

Eqaully interesting, however, is what the returns disclose about the way people of means try to arrange their affairs so as to minimize their taxes legally, by bunching their charitable contributions in certain years, for example.

In addition, the Nixon tax returns tend to support the argument made by tax reformers that the "minimum tax" enacted in 1969 has a puny impact on wealthy persons who can arrange their affairs to achieve maximum tax avoidance. The Nixons were subject to the minimum tax, as a couple with a high income and very low tax, in both 1970 and 1971. In 1970, they had to pay a total tax of only $792.81 on an adjusted gross income of $262,942.56, because of the existence of the minimum tax. It was only the minimum tax that kept them off the notorious list of high-income persons who paid no Federal income tax at all.

Differennt Situation

In 1972, the situation was somewhat different. Though the Nixons had about the same income as they did in 1970, $262,384.75, they had slightly smaller deductions and, as a result, owed some tax under the regular income tax. The amount owed was $878.03. With such a high income and such a low tax, they were forced to calculate their liability under the 'minimum tax"—but it turned out they did not owe any more.

As for the ways in which the Nixons arranged their affairs to avoid nearly all Federal income tax, 1970 is by far the most interesting year among the four covered by the disclosures.

In brief, someone appears to have blundered in making the arrangements for 1970. The Nixons had more deductions that year than they had income—a waste, in the tax sense, of deductions that could not be used to reduce taxes below the zero level.

The year 1970 was the only one in which the Nixons had charitable contributions (other than the disputed gift of the pre-Presidential papers) that were anywhere near the average for their income group. They gave a total of $7,512, of which $4,500 went to the Rev. Billy Graham's Evangelical Association.

The question is why the Nixons piled up the deductions that did them no good for tax purposes that year.

A Possible Explanation

The answer that is being suggested by numerous tax lawyers who are poring over the published figures is this:

Perhaps the Nixon thought they were going to have to declare a capital gain on the sale of the San Clemente land, and wanted enough deductions to offset the gain. By the time their tax accountant, Arthur Blech of Los Angeles, decided there was no taxable gain—an opinion that the prestigious accounting firm of Cooper & Lybrand disagrees with—the extra contributions had already been given.

There is also some evidence that the explanation is the other way around. There has been some dispute over the actual date of the sale of the San Clemente land, which the White House says was in 1970. There is evidence, which has been examined by the House Committee on Government Operations, that indicates the sale was not actually completed until early 1971.

It is possible, some tax lawyers are now asking, that the Nixon wanted to place the sale in 1970, because they had so many deductions that year that they wanted their capital gain in that year, too? As it turned out, their accountant ruled that there was no taxable gain.

Matter of Timing

The importance of timing in tax mattersi s also illustrated by some other aspects of the documents released by the White House.

For example, the gift of undisputedl egality that Mr. Nixon made in 1968 of a first batch of his pre-Presidential papers. The date on the gift was Dec. 30, thus, enabling him to take a deduction against the income he earned as a New York lawyer, which may have been larger than what he earns as President. The 1968 tax returns were not released, so his earnings that year are not known.

Mr. Nixon apparently learned of the big tax deductions that were formerly permitted for donations of personal papers by public figures with President Johnson in a meeting shortly after he was elected in 1968.

Mr. Nixon has said that this meeting took place after he was, himself, in the White House, but that statement is apparently in error. Whatever the date of the meeting, in November or December, 1968, there was time for Mr. Nixon and his lawyers to get together a batch of papers for a gift to the National Archives in time to create a $80,000 deduction for that year.