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**I. R. S. Is Auditing
Nixon Foundation;
Errors Indicated**
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WASHINGTON, Jan. 17—
The Internal Revenue Service is auditing the tax returns of the Richard Nixon Foundation in addition to President Nixon's personal tax returns, Arthur Beach, the President's accountant, disclosed today.

The foundation, created in 1969 to finance and construct a library to house Mr. Nixon's Presidential papers, is a relatively small operation so far, according to its tax returns. Its net worth at the end of 1972, the latest year for which figures are available, was \$114,076.

Unlike individual returns, the tax returns of foundations are not completely confidential. One part is kept secret by the Internal Revenue Service, but another, containing information about income and outgo, is available for public inspection at Internal Revenue offices.

The public portions of the tax returns of the Richard Nixon Foundation raise a

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number of questions about its operations.

The returns also appear, on their face, to contain errors and to omit a considerable amount of information required by law to be included.

No return was filed by the foundation in 1969, despite what revenue officials said was a clear statutory requirement that a return be filed for the first year of any organization that has been granted tax-exempt status.

Among the many other failures to report what appeared to be required information on the tax returns was the omission of any mention of \$20,000 paid by the foundation to Mr. Nixon's brother Edward, assertedly for his services in inspecting sites for the library.

The payments to Edward Nixon were disclosed in a separate report that the foundation was required to make to the California authorities.

The tax returns for the foundation were prepared by Frank DeMarco Jr. and Mr. Blech, the lawyer and accountant, respectively, who worked on Mr. Nixon's personal tax returns.

Mr. Blech refused to answer most questions about the foundation's returns on the ground that he did not have time to

review them because he was busy supplying information on Mr. Nixon's personal tax returns to the Internal Revenue Service and the Congressional Joint Committee on Internal Revenue Taxation. He was first asked six days ago by The New York Times to answer questions about the apparent errors, omissions and inconsistencies in the foundation's returns.

When that request was renewed for the third time today, Mr. Blech said that Internal Revenue was auditing the foundation's returns.

Internal Revenue, following its usual policy, would not say whether the returns were being audited or when the audit began.

Mr. Blech did give an explanation of why he had not reported the payments to Edward Nixon, despite an Internal Revenue requirement that all compensation of officers, directors or trustees of foundations be reported on the tax return.

He said that Edward Nixon was "a nominal trustee, without any powers whatever" and that he had "an attorney's interpretation" that payment to such nominal trustees was not required to be reported.

An Internal Revenue official in the section that audits foundations said that he had never

heard this argument made by any foundation and that the agency, therefore, had not ruled on any such claim.

Among the many other questions raised by the foundation's returns are these:

¶ Is the foundation keeping large quantities of cash in bank accounts that pay no interest, and if so why? The foundation's 1972 return shows cash on hand at the start of the year of \$39,902 and at the end of the year of \$36,592, but no income from interest.

¶ Is the foundation following a policy of quickly liquidating all the contributions it receives in the form of stock? A total of only \$14.43 in dividends is listed as ever having been received by the foundation. That was in 1972, though it has owned dividend-paying stocks in each year starting with 1970. Mr. Blech said that much of the dividend-paying stock was received in December in 1970 and 1971 and sold the next month, and that therefore, no dividends were received. He said that all dividends received were reported.

¶ From whom is the foundation renting office space, and why does the rent vary so? Rent was listed as a \$10,000 expenditure item in 1970, at \$156.38 in 1971 and at \$5,500 in 1972. Mr. Blech cut off questioning about the foundation's

returns before this question could be put to him.

The foundation's tax returns also appear to be inaccurate on their face, on a matter that is central to the particular type of favored, tax-exempt status that the foundation has.

The Nixon Foundation has obtained a ruling from Internal Revenue that it is a "public charity" and not a "private foundation." There are a number of legal distinctions in the treatment of the two types of organizations, but the most important is that a public charity does not have to pay the annual tax of 4 per cent of its income that a private foundation does.

The Nixon Foundation received what is known as an "extended advance ruling" that it is a public charity—a device available to new organizations that gives them, in effect, six years to meet the requirements of a "public charity."

One requirement is that at least one-third of the organization's income come from contributions and fees from the general public. Individuals who have given \$5,000 or more are not regarded as part of the general public for purposes of meeting this test.

The tax return states that there are no persons who have given contributions of \$5,000 or more.