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Nixon Agrees to Pay Tax Debt of $467,000 After IRS Ruling

Political Gamble Is Deahed by Probers' Findings

By Lou Cannon

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The resolution of the President's tangled tax deductions yesterday cost Mr. Nixon one of the biggest political gambles of his life.

It had been the President's hope last December that the bold stroke of making public his tax returns coupled with an invitation for a congressional investigation would restore his public credibility on the issue.

That hope was dashed yesterday by a 210-page report of the staff of the Joint Committee on Internal Revenue Taxation, which recommended that Mr. Nixon should pay $476,431 in back taxes and interest for returns filed from 1969 through 1972.

That report, accompanied by a 784-page documentary appendix was the fruit of a five-month staff investigation. It concluded that Mr. Nixon had acted improperly in claiming deductions for the donation of his vice-presidential papers and in failing to pay capital gains taxes on property at San Clemente and New York.

The gamble was lost for good when the findings of the Internal Revenue Service, which had worked with the committee staff, closely coincided with the findings of the staff report.

The committee staff report also recommended that Mr. Nixon reimburse the government for improvements "primarily personal in nature" at his San Clemente, Calif., and Key Biscayne, Fla., homes, pay back $27,015 in travel expenses for private trips for his friends and family and refrain from claiming $85,399 he took in deductions for business expenses and furniture purchased for his San Clemente estate.

If the President were to make the reimbursements for the improvements and travel expenses, the report said, he would be allowed to take deductions for them "since the amounts were treated as taxable income in the years under examination in which they occurred."

The committee saw the completed report for the first time at a morning session yesterday and met behind closed doors for the entire day asking questions of its highly regarded staff.

It adjourned without either approving or disapproving the report's findings and scheduled another session for today. However, the decision of Mr. Nixon to substantially abide by its findings may mean that the committee will not take formal action on the staff recommendations.

The report said the staff had made no attempt to determine whether there was "fraud or negligence" committed by the President or his representatives in preparation of his tax returns. Any such determination or any demand for payment of back taxes, the report continued, is up to the Internal Revenue Service.

Following a series of news accounts that he had paid only minimal taxes in 1970 and 1971, the President on Dec. 8, 1973, made public his tax returns for his entire first term.

These returns showed that President and Mrs. Nixon paid federal income taxes of only $792 in 1970 and $878 in 1971 and a total of only $78,651 on an income of $1,222,266 during the four years of his first term, a rate of 7 per cent, or the equivalent of the tax rate for a family of four with an income of $8,000.

By far the largest reason for the low tax payments was a $576,000 deduction claimed for the 1969 gift of a portion of Mr. Nixon's vice presidential papers to the National Archives. Through the end of 1972, Mr. Nixon had

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Through the end of 1972, Mr. Nixon had claimed $482,018 of this amount as deductions to offset taxable income and had retained the balance to use as a deduction in 1973 or future years.

On the same day he made public his tax returns last December, the President sought to defuse mounting criticism of his deductions by asking the joint committee to investigate both the gift of his papers and the sale of his San Clemente land "in order to resolve these issues to the full satisfaction of the American people."

"In the event that the committee determines that the items were incorrectly reported," Mr. Nixon said in his letter to then-Committee Chairman Rep. Wilbur Mills (D-Ark.), "I will pay whatever tax may be due."

Mills shocked the White House on March 8 by predicting that the report of the joint committee would give more cause for Mr. Nixon's resignation than any of the allegations stemming from the Watergate cover-up. Mills said subsequently he was talking about anticipated public reaction to disclosure of improper deduction.

The White House has been manuevering for the past two weeks to delay the final report or, alternatively, to soften its impact upon the President. White House lobbyists succeeded in part of their objective when the document was put forth as a staff report, but attempts to withhold its release collapsed yesterday morning in a closed-door committee session.

Instead, the committee bowed to the strong desire of its chairman, Sen. Russell B. Long (D-La.), and voted to immediately release the staff report. The only member of the 10-man committee to oppose release of the document was Sen. Carl Curtis (R-Neb.), who afterward issued a statement saying that determination of Mr. Nixon's tax liability should be left to the IRS and to the courts.

The staff's major finding was that the $482,018 deductions claimed for the vice presidential papers should be disallowed because the gift was made after the July 25, 1969, cutoff date.

The report also said that Mr. Nixon should have paid a capital gains tax on the sale of land to Robert Abplanalp and C. G. (Bebe) Rebozo surrounding the presidential villa at San Clemente. This finding supported the conclusion previously reached by Mr. Nixon's own accounting firm of Coopers & Lybrand.

"The staff believes that there was an erroneous allocation of basis between the property retained and the property sold and that a capital gain of $117,836 should have been reported," the study said.

In addition to its adverse finding on these two items that the President specifically asked the committee to investigate, the staff also said that Mr. Nixon had claimed a number of other improper deductions. The most costly of these to the President would be the loss of the $142,912 deferred capital gain which he reported on his 1969 tax return.

The gain, from the sale of Mr. Nixon's New York apartment, was deferred because the President reinvested the profit in the purchase of his San Clemente estate.

"The staff believes that the President is not allowed to defer recognition of his capital gain on the sale of his New York City cooperative apartment because it does not view the San Clemente residence in which he reinvested the proceeds of the sale (within one year) as his principal residence," the report said. "Also, the staff believes this gain is larger than the $142,912 reported on the 1969 tax return, because the President's cost basis should be reduced by the depreciation and amortization allowable on the New York apartment resulting from its use in a trade or business by Mr. Nixon."

The actual amount of the gain, the report concluded, was $151,848.

Mr. Nixon's accountants and tax attorneys claimed that California was not the President's principal residence in successfully resisting attempts to make Mr. Nixon pay state income tax. A copy of the ruling which found that the President was not a resident of the state for tax purposes was appended to the report.

In California, however, a legislative committee raised the state income tax issue again by ordering the State Franchise Tax Board to turn over all its records on the tax status of Mr. Nixon and his wife. The committee was asked to take up the issue by Assembly Speaker Bob Moretti, a Democratic candidate for governor.

The largest single year of federal tax deficiency, according to the staff report, was 1969, for which Mr. Nixon was found to owe a payment of $171,055. The report recommended that he pay $110,048 for 1970, $100,214 for 1971 and $95,114 for 1972.

All these amounts included interest payments except for 1969, which is beyond the statute of limitations on tax cases unless fraud is found. A footnote to the report said that Mr. Nixon would owe an additional payment of $40,732 if he voluntarily pays back interest for 1969.

The actual taxes paid by the President for these years were: 1969, $72,682; 1970, $792; 1971, $878 and 1972, $4,298.

The wide-ranging report found fault with Mr. Nixon's tax returns on many items.

It said that he had claimed $85,399 in improper business deductions for furniture purchased by Mr. Nixon for his San Clemente home and in certain expenses from the White House guest fund. It said he should report an additional $11,617 in income on the sale of Florida lots where the capital gain was divided between the President and his daughter Tricia. It said that he should declare as income $92,298 in improvements made on his Key Biscayne and San Clemente homes and $27,015 for personal flights for his friends and family.

Sprinkled through the report also were small items of comfort for Mr. Nixon in the form of purported overpayments, although these were trivial in comparison to the deductions that the staff says should be disallowed.

The report said that he should reimburse $4,816 for a Cabinet Room table in the White House, should be allowed an additional $1,007 in sales tax deductions, and it said he shoul receive an additional $10 in gasoline tax deductions for 1972 while taking $148 less in gasoline tax deductions for 1969-71.

The linchpin of Mr. Nixon's deductions during the entire first four years in the White House was the gift of his vice presidential papers.

On this issue the committee staff report found against the President and the contentions of his two tax attorneys, Kenneth W. Gemmill and H. Chapman Rose, on virtually every issue under contention.

"The staff does not believe that on or before July 25, 1969, there was (1) a firm intent to make a gift; (2) a designation of the papers to be given; (3) a delivery of a designated gift (4) a relinquishment of dominion and control over the property by the donor or (5) an acceptance of the papers by the donee," the report said.

While a deed is not normally needed in the gift of private papers, the report said the deed was needed in this case because the papers that Mr. Nixon actually was donating to the government had not been divided from a larger stack of papers transferred to the National Archives on March 26 and 27, 1969.

"The staff also believes that, since the deed restrictions on access to the papers and also stipulated that the papers were eventually to be stored in the Nixon Library after its construction, the deed was necessary for this gift . . ." the report said.

In concluding that the gift of the vice presidential papers was not completed on the cutoff date of July 25, 1969, the committee staff also reached an opinion that Mr. Nixon had intended to make a gift sometime during the year.

This conclusion was based on correspondence between former White House aide Egil Krogh and Richard Ritzel, the President's former law partner, with John D. Ehrlichman, who then was White House counsel. On one of the memorandums, which the President returned to Ehrlichman, he scribbled the notation: "Good."

However, the staff said there was insufficient evidence to indicate that the President intended to make the gift before July 25.