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The Tax Report

By Anthony Lewis

ABROAD AT HOME

WASHINGTON, April 3—The sudden dénouement of President Nixon's tax saga is another in a series of seemingly endless national shocks. It is not just the total amount the Congressional staff found due, a staggering \$476,431 without penalties, or the \$432,787 plus interest that the President has agreed to pay on demand of the Internal Revenue Service. It is the petty, the very petty, details of the ways tax was avoided.

In deducting 25 per cent of all the operating expenses of his home in San Clemente, Calif., Mr. Nixon included a portion of the cost of watering a three-hole golf course in 1969 and 1970. He took depreciation on a \$2,369 credenza used at Key Biscayne. He deducted \$5,391 spent in 1969 for food, beverages, decorations and rentals at "Miss Tricia Nixon's masked ball," as the report put it. He deducted \$23,576 for what the report called "food expenses of the First Family while at Key Biscayne, San Clemente and Camp David."

The figures and the facts are the more telling because of the notably dispassionate, indeed dry, tone of the report. The staff of the Joint Committee on Internal Revenue Taxation is known for its utter avoidance of partisanship, and no one could read this massive report without recognizing that it had held to that standard.

The staff made a point of observing that the President could properly have taken some deductions, for example to buy Christmas cards or flowers for public gifts, if his lawyers had advanced some substantiation of those purposes. They did not.

Again, in finding that \$92,298 in improvements at the Key Biscayne and San Clemente residences were primarily for Mr. Nixon's benefit, the report emphasized that it was not making any judgment of the propriety of the governmental spending. It said only that the money must be regarded as income to Mr. Nixon, as must \$27,105 in Government air trips provided for his family and friends.

On the largest and most important issue—the deductions for Mr. Nixon's alleged gift of \$576,000 in personal papers to the nation—the committee staff made compendious legal and factual findings against allowing the claimed deduction. It agreed with the many outside tax lawyers and scholars who had written on the subject, on issue after issue: whether the papers were really conveyed to the Archives before the tax deduction cut-off date of July 25, 1969; whether Mr. Nixon retained a property interest in them, whether the deed was properly signed, and so on.

Just why the President's aides tried to delay the Congressional report's publication is mystifying. In any event, Mr. Nixon always had to deal with the Internal Revenue Service. It had agents working closely with the joint committee investigation, and it would almost certainly have felt obligated to serve deficiency notices on him if he failed to pay the amounts indicated—or most of them—voluntarily.

Indications are that the I.R.S. has ruled out a fraud charge, either civil or criminal. The committee staff carefully took no position on that, or on the lesser penalties for negligence, but it did raise an eyebrow here and there about the behavior of Mr. Nixon's onetime lawyers. After saying that it had no evidence on the President's knowledge of the doubted deed, the report observed that it was signed by an assistant counsel in the White House on April 10, 1970, "the same day Mr. Nixon signed the tax returns."

A finding of negligence would have added a 5 per cent penalty to the deficiencies, bringing the Congressional total due with interest to \$400,079. Civil fraud would have added 50 per cent to all the deficiencies (whether individually fraudulent or not) and would suspend the statute of limitations on the 1969 return to make interest due there, bringing the grand total due to \$739,174.

Beyond the trouble for Richard Nixon and the proper concern of the country for his tax probity, the report of the joint committee staff should sound an extremely serious alarm for the Internal Revenue Service.

The service never investigated Mr. Nixon's 1969 return, letting the statute of limitations run despite the enormous claim for deductions on the doubtful gift of papers. When it finally got around to investigating the later returns, last May, the agents spent just eight days on the whole complex set of returns. They apparently never put any questions about the papers to the General Services Administration, which supposedly received the gift, or to the appraiser who valued it.

When that extraordinarily brisk and easy audit of the Nixon returns was completed, the official in charge wrote the President: "I want to compliment you on the care shown in the preparation of your returns." That man, William D. Waters, has since been promoted to head the Philadelphia office. If public confidence in the tax system is not to be seriously damaged by the Nixon scandal, the service will have to do some candid examination of itself.