

IRS Rules Out Fraud Penalty On Nixon Taxes

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The Internal Revenue Service said last night it will not seek to impose any penalty on President Nixon for civil fraud in connection with his tax returns for 1969 through 1972, and is closing its audit of the case.

"The President has agreed to pay the amount of \$432,787.13 in additional taxes" for those years "plus interest," the IRS said. "This will close the IRS audit of the President's returns for those years."

"The IRS did not assert the civil fraud penalty for any of the years involved in the audit," the brief statement concluded, "because it did not believe that any such assertion was warranted."

Tax experts said yesterday that there are four basic things the IRS can do to a citizen when it finds, as it did in the President's case, that he has failed to pay all the taxes he owes.

The action the IRS takes depends on how serious it thinks the failure was—how much money was involved, and whether the failure was innocent, negligent or fraudulent.

The most common alternative is the one used in the President's case. The IRS makes the taxpayer pay the back taxes plus interest. The interest rate is now 6 per cent.

This is done where the amount is small or the error is deemed innocent.

The second alternative is to impose a 5 per cent "negligence penalty." This is done, the experts say, where the error is not deemed to have been willful, but where the taxpayer, as one put it yesterday, "didn't pay as much attention as he should have."

The third alternative is to impose a 50 per cent penalty for civil fraud on top of taxes and interest. The fourth and most serious is to prosecute the taxpayer for criminal fraud.

Civil and criminal fraud are defined the same way; the IRS has to show that the taxpayer willfully intended to cheat the government.

The difference between

them lies in the seriousness of the penalty—conviction for criminal fraud can result in a fine of up to \$10,000, imprisonment for up to five years, or both—and in the standard of proof that the IRS must meet in court.

Criminal fraud, like all other felonies, requires proof beyond a reasonable doubt. Civil fraud requires only what the lawyers call "clear and convincing" proof.

Criminal fraud is what former Vice President Spiro T. Agnew was charged with when he left office earlier this year. He pleaded no contest to the charge. The government in that case was charging that Agnew willfully paid less than he owed. In its announcement last night, the IRS was saying it will make no similar accusation in the President's case.

The IRS said yesterday it audited the returns of about 1.4 million taxpayers last fiscal year. About 8,600 audits led to fraud investigations in that same year, the IRS said, and there were about 2,500 prosecutions for fraud.

The service said most of its prosecutions for fraud are successful; in most cases, the taxpayers plead guilty without a trial.