

I.R.S. HEAD SILENT ON NIXON PENALTY FOR BACK TAXES

Bars Comment on Possible
Assessment of 5% for
Negligence on Returns

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But Alexander Asserts in TV
Interview That No Finding
of Fraud Was Made
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Donald C. Alexander, the commissioner of the Internal Revenue Service, refused today to say yes or no when asked if the \$432,787.13 owed in back taxes by President Nixon may have included a negligence penalty of 5 per cent.

Under sharp questioning during an appearance on the Columbia Broadcasting System's television program "Face the Nation," Mr. Alexander declined repeatedly to say whether such a penalty had been assessed.

The commissioner based his refusal to answer the question on the principle of confidentiality between the service and the taxpayer. On the other hand, he did not invoke that principle when he said there had been no fraud penalty assessed against the President.

No White House Comment

A White House spokesman declined to comment on the matter of a possible negligence penalty. Arthur Blech, an accountant who helped prepare the President's tax returns, told a New York Times reporter in Los Angeles that he was surprised and shocked that the issue had been raised. He added, "I can't imagine where the negligence lies."

Mr. Alexander also said for the first time that the revenue service's original audit of the President's tax returns had not been as thorough as it should have been. The commissioner added that previous Presidents had been treated too leniently by the revenue service, and said that practice had been changed.

Mr. Alexander was asked

about negligence, fraud and the possibility of action against anyone in connection with the preparation of the President's tax returns during his first term.

No Fraud Penalty

"Taking your three-part question, with the last part first, I can't comment on what action the I.R.S. and others may be or may not be taking with respect to others," Mr. Alexander answered.

"As far as the President is concerned," Mr. Alexander continued, "we believe and have so stated that there's no warrant for the assertion of the civil fraud penalty against this taxpayer. As far as the negligence addition to the tax is concerned, I have no comment."

That answer prompted the following exchange between Mr. Alexander and a C.B.S. correspondent, Daniel Schorr.

Q. You have no comment?

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You mean that the question of negligence is still an open question?

MR. ALEXANDER: The I.R.S. has asserted a total of \$432,787.13 in additional tax. The president's announcement [that he would pay that amount] did not allocate those amounts among years or items. The I.R.S. believes that all taxpayers, including this one, are entitled by law and by sound I.R.S. practice to a basic right of taxpayer privacy, and we don't propose to go behind that.

Q. I understand that's your general position. But when you started investigating the president's taxes you announced that you were conducting the investigation because the White House waived that particular privacy.

In the past, the I.R.S., even though it maintains privacy, will respond if it's a matter of correcting the public record where something has been said by the taxpayer. The question has to be, since the White House has said that you found no fraud, civil fraud, presumably no criminal fraud, leaving open the question of negligence, the question has to be, Did you find negligence?

A. And the answer to that question is no comment.

Q. Even though the White House has waived partly privacy?

A. The White House has issued a statement, and appropriately so. That statement, so far as this question is concerned, listed the aggregate amount plus interest that the I.R.S. had assessed. I made no further breakdown of that aggregate. We don't

propose to do so.

Mr. Alexander said that the I.R.S. had a policy of correcting the record if accretion was necessary to protect the integrity of the tax agency. "No such correction is warranted at this time," he added.

Q. If the White House simply omitted the question of negligence and there was negligence that you found, would that be something to require correction, an omission of that sort?

A. I don't think so.

In an appearance on the American Broadcasting Company program "Issues and Answers," Representative Wilbur D. Mills, Democrat of Arkansas, said he was of the opinion that no such penalty had been assessed. However, the chairman of the House Ways and Means Committee said, "It could possibly have happened and we would know nothing about it."

In conceding that the tax agency's original audit of Mr. Nixon's returns was not thorough enough, Mr. Alexander said:

"I think we were plowing new ground, and I think the I.R.S. is perfectly capable in the future and at this time of meeting its obligations."