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**Explanation: Intricacies of the Nixon Tax Returns  
Being Examined in Impeachment Inquiry by House**

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WASHINGTON, June 20—Is Richard Nixon a man who cares so much about money that even while President of the United States he kept on the alert for every possible angle that could save him taxes — even some that he knew were illegal?

Or, conversely, has he been, as President, a terribly busy man who turned over to others complete responsibility for his personal financial affairs, including his tax returns?

There is little argument that the lawyers, accountants, appraisers and White House staff assistants who had a hand in Mr. Nixon's tax returns during the years of his Presidency have made a bad job of it.

The Internal Revenue Service and the Congressional Joint Committee on Internal Revenue Taxation, which made independent audits of the Nixon tax returns, both found that Mr. Nixon, who paid only \$78,000 in Federal income taxes on more than \$1.2-million of income for the years 1969-72, underpaid his taxes by more than \$400,000.

What the House Judiciary Committee will have to try to decide, as part of its impeachment inquiry, is how this underpayment came about and how it bears on Mr. Nixon's fitness to continue in office.

#### Question of Fraud

Was fraud involved — The I.R.S. has said it was not and the joint committee avoided the question — and if so, did Mr. Nixon have knowledge of it?

If there was fraud and Mr. Nixon did not know of it, should he nonetheless be held legally responsible, as a lawyer himself and a man who, by his own testimony, has practiced considerable tax law? The normal rules of tax enforcement did not exculpate a lawyer simply because he pleads that he relied on the advice of another lawyer.

Even if there was no fraud, did the sozen different categories of improper deductions, erroneous calculations and omitted items of income that were discovered on the tax returns add up to a pattern of behavior that has diminished public respect for the Presidency? This, in itself, would constitute an impeachable offense in the eyes of at least some members of the Judiciary Committee.

The committee has recognized that it may not be able to make a definite finding on what Mr. Nixon himself knew about what was on the tax returns.

As its staff noted in a "status report" two months ago, the special Watergate prosecutor, Leon Jaworski, is investigating "possible tax fraud" but the results of the inquiry probably "will not be available to the committee under the committee's contemplated timetable," which to reach a final vote on articles of impeachment by the end of July.

#### Little Lived Evidence

Very little direct evidence exists — at least, very little that is known to the public — supporting the argument that the President knew exactly what was being done in his behalf on the matter where the question of fraud looms largest. This is the deduction he took for the gift of his pre-Presidential papers to the National Archives, which both the I.R.S. and the Joint Committee found illegal.

A good bit of evidence exists, however, that Mr. Nixon

took a lively interest in his taxes as a general matter.

For example, three different memorandums have come to light, written by a former White House counselor, John D. Ehrlichman, which indicate that the President had inquired about how he could obtain maximum tax deductions.

One of the memos is addressed to the President himself and details the manner in which charitable contributions can be arranged to make sure they offset the maximum 30 per cent of Mr. Nixon's income, for tax purposes.

The word "good" in Mr. Nixon's handwriting, according to testimony, is written on the memo.

The two others, addressed to a subordinate of Mr. Ehrlichman, quote the President as raising a number of specific tax questions.

#### Previous Presidents

For instance, he is quoted as suggesting that his staff review the tax returns of previous Presidents (in itself an action of questionable legality) because "he wants to be sure that his business deductions include all allowable items."

Mr. Nixon is also quoted as asking whether he could take it as a deduction if he paid his daughter Julie out of his own pocket for working as a White House guide one summer.

The Ehrlichman memo also raises questions about tax deductions for the business use of Mr. Nixon's properties in Florida and California, which Mr. Nixon subsequently took and which were subsequently declared unlawful by the Joint Committee. (Whether I.R.S. made the same finding on these matters is not known, because most details of its audit have never been made public. The total delinquency assessed by I.R.S. is slightly different—and lower—than that found by the Joint Committee.)

Another item of evidence indicating that Mr. Nixon took an interest in every detail of his tax returns and carefully read the information that was given to him about his taxes comes from testimony to the Joint Committee from a former White House staff assistant, Peter Kinsey.

#### The Papers

Mr. Kinsey said that in late 1972, at Mr. Ehrlichman's request, he prepared a memo discussing in general terms the ways in which a real estate transaction involving Mr. Nixon and his daughter Tricia could be handled for tax purposes. He testified that he had gotten back from Mr. Ehrlichman a memo "saying that the President wanted a more detailed discussion of the tax consequences in terms of 'dollars and cents' figures," according to the report of the Joint Committee.

In addition, public statements have been made by Mr. Nixon's tax lawyer, Frank DeMarco Jr., that the President went over his 1969 tax return—the most controversial one—"page by page" before he signed it.

What follows is an explanation of the major substantive questions that have been raised about the legality and propriety of the Nixon tax returns:

Sometime in 1969 or 1970—the date is in question and it is crucial—Mr. Nixon gave to the National Archives a portion of the personal and official papers he had collected in the years before he was Pres-

ident. They were appraised by a professional appraiser, Ralph G. Newman of Chicago, as being worth \$576,000.

Mr. Nixon had taken \$482,000 of the appraised value as a tax deduction during the years 1969-72 and plainly had planned to take the rest on his 1973 tax return when the legality of the entire series of deductions was challenged. The basis for the challenge: Congress changed the law, effective July 25, 1969, to prohibit future deductions for gifts of personal papers by public figures. At issue is whether Mr. Nixon made the gift before the law change.

The White House argues that the papers were delivered to the Archives in March, 1969, and that point is undisputed. But officials at the Archives regarded the papers as merely having been delivered for storage, and there are a number of internal memos that say just that.

The White House says that the deed formally turning over the papers to the Archives was signed on his behalf by one of Mr. Nixon's lawyers, Edward L. Morgan, in April, 1969. But the main Nixon lawyer in the handling of this transaction, Mr. DeMarco, acknowledged that the one copy of the deed that currently exists is a duplicate that was signed a year later — after the change in the statute — and backdated.

The alleged original inventory of the donated papers also does not exist.

Mr. DeMarco, who says he notarized the original, timely, deed, kept no record of his notarization, although this is required by California law, and this week he resigned his notar commission rather than face a hearing in California over its possible revocation. Other California lawyers confirm that the record-keeping requirement is seldomly disregarded.

Among the most damaging testimony that has been given against Mr. Nixon's contention that the papers were donated before the date of the statutory change was that of Mayr Walton Livingston, a member of the professional staff of the National Archives.

Mrs. Livingston testified that the exact papers that were donated were not actually selected until March, 1970, when Mr. Newman called her and told her to do the job.

When Mr. Newman next called her, in March, 1970, he insisted that she suggest to him within an hour groups of papers to be given that would total about \$500,000 in value—A far larger gift than the one they had talked about in November, when he was apparently thinking of a one-year, rather than a multiyear, deduction.

In addition, Mrs. Livingston testified that Mr. Newman had asked her not to inform her superiors of his call. "It would be better for his purposes, he said, and for the White House, if this were a transaction between him and me," Mrs. Livingston is quoted as saying in the Joint Committee report.

She was "disturbed" and "concerned" and did tell her superiors, she said, and there are memos to back up her version.

The admittedly backdated deed and the possibility that Mr. DeMarco, Mr. Newman and others worked together to falsify the record presents the major issue of possible fraud in the President's tax returns.

#### Capital Gains

The Joint Committee found that Mr. Nixon was involved in

three different real estate transactions on which he failed to declare any or all of the capital gains that he realized and to pay proper taxes on them.

The first was the sale of his New York cooperative apartment. Mr. Nixon failed to make a proper deduction for the fact that he had written off part of the apartment as an office and, in addition, erroneously claimed that he could postpone the whole capital gains tax because he reinvested the gain in his San Clemente property. The Joint Committee said San Clemente was not a "principal residence" within the meaning of the tax laws, because Mr. Nixon was claiming Washington, D. C., where he was exempt from local income tax, as his residence.

The second capital gain came from sale of some lots in Florida in which Mr. Nixon had invested jointly with his daughter Tricia. The Joint Committee said that the profit from the sale had been improperly allocated as between the President and his daughter.

The third capital gains item involves the sale of land adjacent to Mr. Nixon's oceanside house in San Clemente, and on this point the Joint Committee said there was simply no way to defend the arithmetic used by Mr. Nixon's accountant, Arthur Bech, to contend that there had been no gain on the sale.

#### Other Items

The Joint Committee, and presumably also Internal Revenue, also found that Mr. Nixon had improperly taken deductions for office use of part of his San Clemente and Key Biscayne properties, improperly depreciated some furniture he bought, improperly deducted as a business expense the \$5,000 cost of a masked ball given by Tricia, failed to reimburse the Government (or declare as income-in-kind to himself) the costs of purely private plane trips taken by members of his family, and received \$92,000 worth of Government improvements to his various properties that he did not declare as income.

While there have been charges from the White House that the criticism of Mr. Nixon's tax returns has been partisan, the fact is that Internal Revenue came within about \$25,000 of finding the same \$444,000 in delinquencies that the Joint Committee did.

In addition, three of the four Republican members of the Joint Committee, as well as all of the six Democrats, formally expressed their agreement with the substance of most of the findings of its staff, which did the investigation of Mr. Nixon's taxes. The lone dissenter was Senator Carl T. Curtis of Nebraska.

Two of the Republicans who went along with the majority, Senator Wallace Bennett of Utah and Representative Harold R. Collier of Illinois, would have had little political motive for their action. Both have announced that they are retiring at the end of their present terms.

Those are facts that will probably weigh heavily with the Judiciary Committee.