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**SPECIAL HANDLING  
OF NIXON PENALTY  
CONCEDED BY I.R.S.**

**Judiciary Panel Also Reports  
Tax Chief Let Jaworski  
Pursue Fraud Evidence**

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WASHINGTON, July 26—The Commissioner of Internal Revenue has conceded that he handled tax penalties against President Nixon differently than the agency normally would for other taxpayers.

That disclosure emerged from the 10th volume of the House Judiciary Committee's state-

*Text of committee's summary  
is printed on Page 10.*

ments of information on Mr. Nixon's conduct, which was made public today by the committee in connection with its impeachment proceedings.

The report showed that Internal Revenue Service investigators informed Donald C. Alexander, the commissioner, that evidence of fraud in the President's returns might be found if Presidential aides who had refused to testify on the matter were compelled to do so.

Mr. Alexander then referred the matter of fraud to Leon Jaworski, the special Watergate prosecutor.

But in what Mr. Alexander conceded today was an unusual procedure, his agency simultaneously notified Mr. Nixon that it had found large deficiencies on his tax return and was assessing him a 5 per cent negligence penalty, rather than the 50 per cent fraud penalty.

**No Curb on Prosecutor**

Mr. Alexander said, when asked about the matter, that "in most cases" his agency would "make as complete an investigation as possible" before sending the deficiency notice.

Mr. Alexander added, however, that the procedure he followed did not preclude the special prosecutor from pursuing a fraud case against the President.

The committee's document makes available, for the first time, some of the details of the Internal Revenue Service audit of Mr. Nixon's taxes for the years 1969 through 1972.

The agency found that the President had underpaid his taxes for those years by a total of \$419,229.69, a figure that was somewhat lower than the \$444,022.32 deficiency that was asserted by the Congressional Joint Committee on Internal Revenue Taxation.

The principal difference between the two figures arose from a difference of opinion

about the expenditures that were made by the Government on Mr. Nixon's houses in San Clemente, Calif., and Key Biscayne, Fla.

The revenue service concluded that \$67,388 of these expenditures represented outlays that were unrelated to any

Continued on Page 11, Column 1

Continued From Page 1, Col. 4

official requirements and thus amounted to taxable income received by the President. The Congressional committee had put the total expenditures in this category at \$92,279.

While the revenue service was, to a slight extent, generally more lenient toward Mr. Nixon than the joint committee was, the agency did find one item of unreported Nixon income that the joint committee had overlooked.

The item was \$10,384.50 worth of royalties from Mr. Nixon's book "Six Crises" that the President did not report as income because, he contended, it had been assigned to the Nixon Foundation and was thus tax-exempt. The revenue service found that "no assignment of title to the manuscript was ever made" and thus held that Mr. Nixon should pay tax on the royalty income.

The I.R.S. audit report also stated, while the joint committee did not, that there was never any partnership agreement between Mr. Nixon and his older daughter, Tricia, through which they made a joint investment in some property in Florida.

The alleged partnership agreement was significant because, under it, Mr. Nixon and his daughter split the profit from the sale of their Florida land in a manner that did not accurately reflect the proportional investment that each had made. Arbitrary splitting of profits among family members in such a way as to lower the total tax paid—as happened in this instance—is illegal.

**No Claim of Fraud**

The I.R.S. report on this aspect of Mr. Nixon's taxes made no claim of fraud or illegality, but merely noted, "The purported partnership did not, in fact, exist."

The bulk of the House Judiciary Committee's volume was devoted to a discussion of the largest item of controversy in Mr. Nixon's tax returns: the deductions, totaling \$482,000, that Mr. Nixon took for a gift to the National Archives of some of his pre-Presidential papers.

It is on this matter that the charges of fraud have been most widespread. And it was with relation to this deduction that Internal Revenue Service officials down the line from Commissioner Alexander suggested that if certain aides of Mr. Nixon were compelled to testify, they could "possibly connect the taxpayer"—that is, Mr. Nixon himself—"with the preparation of the tax return and therefore change our recommendation against the 50 per cent fraud penalty."

That was the statement sent up the chain of command from Robert L. Browne, chief of the I.R.S. intelligence division in the Baltimore district office. The intelligence division investigates cases of possible fraud.

Mr. Browne's subordinate, William N. Jackson, the agent who did the bulk of the fraud investigation, had reported to Mr. Browne that "inconsistencies abound" in the testimony of various persons who had a hand in the preparation of the returns.

Mr. Jackson reported that

three key witnesses had changed their testimony during the course of the investigation. They were Frank DeMarco Jr., a private lawyer who prepared and signed Mr. Nixon's 1969 tax return; Ralph G. Newman, the Chicago appraiser who valued the papers Mr. Nixon donated, and Edward L. Morgan, a lawyer on the White House staff.

In addition, Mr. Jackson's report noted that another private lawyer serving Mr. Nixon, Mr. DeMarco's partner, Herbert W. Kalmbach, had denied having anything to do with the preparation of the 1969 tax return—the key one, because it was the first one on which the gift of the papers was claimed as a deduction.

But the Jackson report went on, Mr. Kalmbach's diary notations indicate that he was involved in the matter.

"Kalmbach has not been interviewed again and confronted to explain the notations set forth in his diary entries," Mr. Jackson's report continues without offering any explanation of why this was not done.

The Jackson report also noted that John D. Ehrlichman, formerly Mr. Nixon's top aide in the domestic policy area, was apparently also involved in the gift of the papers and the 1969 tax return.

"Attempts have been made to interview John Ehrlichman," Mr. Jackson's memo continued, but "he has not made himself available for interview."

Mr. Jackson suggested that a grand jury be asked to investigate the roles of Messrs. DeMarch, Newman, Morgan, Ehrlichman and Kalmbach in preparing the President's 1969 tax return and the gift of the papers, which involved, among other things, a backdated deed that was not, executed until nine months after the cutoff date for deductions for gifts of papers.

Commissioner Alexander recommended such an investigation to Mr. Jaworski, the special prosecutor.

Among the other items of previously unpublished information contained in the Judiciary Committee's volume were the following:



¶A statement that Mr. Nixon got the refund on his 1969 tax return as originally filed — it amounted to \$35,301.17 — in two weeks. Refunds for most taxpayers take about eight weeks when the return is filed in the final week before the April 15 tax deadline, as Mr. Nixon's was.

¶Disclosure that the Internal Revenue Service decided to audit Mr. Nixon's tax returns for 1970, 1971 and 1972 on Nov. 28, 1973, more than a week before Mr. Nixon publicly asked the Joint Committee on Internal Revenue Taxation to do so. Exactly when Mr. Nixon first knew of the audit is not clear. Commissioner Alexander said that he informed George Shultz at the time, of his intentions on Nov. 28 and that Mr. Shultz said he would inform Mr. Nixon's chief of staff, Gen. Alexander M. Haig Jr. But Mr. Shultz said today that he could not remember having done so.

¶An official statement by the revenue service that the first audit of Mr. Nixon's returns for 1971 and 1972, conducted in May, 1973, "was not an in-depth audit." Mr. Nixon has repeatedly stated that this audit was the most detailed type of audit that I.R.S. ever conducts.

¶A statement by the committee, confirmed today by the White House press office, that Mr. Nixon has not yet paid the \$148,080.97 tax deficiency that was found by I.R.S. for 1969. Unless fraud is found, Mr. Nixon cannot be compelled to pay the 1969 tax, because the statute of limitations has run out. But the White House press office repeated today that Mr. Nixon intended to pay it as soon as he could.

The Judiciary Committee statement included several long memorandums from Mr. Nixon's tax lawyers, Kenneth W. Gemill of Philadelphia and H. Chapman Rose of Cleveland, asserting, among other things that they believed Mr. Nixon would be upheld in court on several of the tax items that had been disallowed by both the Congressional Joint Committee and the I.R.S.



Associated Press

Himself in the camera's eye, Lieut. Gov. Ed Reinecke of California took pictures as he arrived for yesterday's session of his perjury trial in Washington.