1974


Don Edwards

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1. Sequence of Events Respecting Deduction

After his election in November, 1968, President-elect Nixon paid a courtesy call on President Lyndon B. Johnson at the White House. President Nixon has stated that at that meeting he was advised by President Johnson to look into contributing some of his personal papers to the National Archives, and taking a tax deduction for the value of the papers contributed. At the same meeting, or soon thereafter, President Johnson or one of his staff gave to Mr. Nixon or one of his staff the name of Ralph Newman, who had appraised President Johnson's papers.

On December 19, 1968 Mr. Nixon met at his New York apartment with Richard Ritzel, one of his partners in the law firm of Nixon Mudge Rose Guthrie Alexander & Mitchell, and asked Ritzel to look into the possibility of Mr. Nixon's making a gift of this kind and taking the tax deduction thus made available. Ritzel concluded that a gift could be made, but that time was of the essence because the end of the year was approaching. Ritzel reported this conclusion to Mr. Nixon. On December 22, 1968 the President-elect told Ritzel to go ahead with the gift. Ritzel asked one of his partners, Pat Tannian, to draft Mr. Nixon's deed of gift. Tannian drafted two versions, one containing restrictions on access to the papers while Mr. Nixon was President, and the other containing no such restrictions.

Egil Krogh and Edward L. Morgan, who worked for John Ehrlichman on the administration transition staff (and who each later became deputy
counsel when Ehrlichman became Counsel to the President after the inaugura-
tion), were asked by Ehrlichman to assist Ritzel in the transfer of the
papers. On December 27 or 28 Krogh flew to Key Biscayne, bearing the
two versions of the deed of gift, and a covering memorandum to Mr. Nixon
from Ritzel. In the memorandum Ritzel outlined the differences in the two
deeds, noted the target figure of $60,000 for a gift which had been suggested
by Mr. Nixon's accountant, and suggested that Mr. Nixon sign both versions
of the deed so that either could be used, depending on whether or not
papers "which should be restricted from public perusal while you are the
President" were selected by Newman for giving.  

On the evening of December 28 Ritzel was telephoned at his New
Jersey home by Mr. Nixon. In the conversation, which lasted about twenty
minutes, they discussed Ritzel's memorandum -- in particular, the problem of
whether public access to the papers should be restricted. Mr. Nixon said
that he was going to execute the restrictive deed, and gave Ritzel authority
to annex to that deed a description of the papers selected for the gift
when Newman chose them.  

On December 29 Krogh arrived in the Nixon Mudge law offices with
the executed deed of gift. Morgan and Ritzel were present while Newman
and Loie Gaunt, a long-time assistant to Rose Mary Woods, selected the
papers for the gift. After the selection was completed, an exhibit describ-
ing those papers was drawn up and attached to the executed deed. The next
day a representative of the General Services Administration, of which the
National Archives is a division, countersigned the deed as "accepted." Mr.
Nixon's papers were then transferred from the Nixon Mudge offices to a GSA
truck, which took them to a federal records center in New York City.

When the President's tax return for 1968 was prepared, the gift was valued by Newman at $80,000. Of this, $70,552.27 was deducted for tax year 1968, and $9,447.73 was available as a deduction carryover for future years. Also, in accordance with Internal Revenue Service regulations, a statement was attached to the return, which included information as to the existence of any restrictions on the gift. It said in substance that the gift was free and clear with no rights remaining in the taxpayer.

After the Inauguration, on February 6, 1969, John Ehrlichman wrote a memorandum to the President on the subject of "Charitable Contributions and Deductions." Ehrlichman recited the 1968 gift of papers, and suggested that the President could continue to obtain the maximum charitable deduction of 30 percent of his adjusted gross income by first contributing to charities proceeds from the sale of the President's writings in an amount equal to 20 percent of his adjusted gross income. With respect to "the remaining 10 percent," Ehrlichman's memorandum noted that it would "be made up of a gift of your papers to the United States. In this way, we contemplate keeping the papers as a continuing reserve which we can use from now on to supplement other gifts to add up to the 30% maximum." There is a notation on the memorandum, apparently in the President's handwriting, which states "(1) good (2) Let me know what we can do on the foundation idea --." There is no reference in the February 6 memorandum to making a bulk gift of papers in the year 1969 which would be sufficient for the President's 30% charitable deduction for 1969 and succeeding years.
Both Ritzel and Morgan have told the staff that there were probably discussions during this time on the desirability of giving the remainder of the President's pre-presidential papers to the National Archives. They noted that this question had been discussed in 1968, but that there had been barely enough time for a one-year gift then, not to mention selecting papers for a massive gift. They did not recall any instructions from the President with respect to a bulk gift of papers.

In a February 28, 1969 response to earlier letters from Krogh, Ritzel noted that if Newman's appraisal of the 1968 gift proved to be "higher than anticipated, it will have to be taken into consideration in making any gifts this year." He also wrote, "If you will recall, it had not been our plan to give any of the Presidential papers, within the near future, to the Government since Newman made it quite clear to us that the volume of Vice Presidential papers which we had would undoubtedly take care of the deduction for a number of years, and the thought was that we would use the oldest first, with the hope that we would be able to get the full deduction for practically the entire life of the President." Ritzel's letter makes no mention of a bulk gift of the President's papers.

Morgan and Ehrlichman were with the Presidential party in Europe during the President's visit from February 23 to March 2, 1969. On March 11, Morgan and Charles Stuart, also of Ehrlichman's staff, met with Walter Robertson, Executive Director of the National Archives, and Daniel Reed, Assistant Archivist for Presidential Libraries. They discussed Presidential libraries, the transfer of the 1968 gift papers from New York to the Archives
in Washington, and adding an archivist to the White House staff. In addition, the Archives officials agreed to organize and inventory a large body of President Nixon's pre-presidential papers located in the New Executive Office Building, and to recommend appropriate disposition of this material. After that meeting Archives personnel found that the space in the EOB was inadequate for doing archival work on the President's papers, and suggested that the papers be moved from the EOB to the Archives. Stuart wrote Dr. Reed on March 14, confirming that the logistics of the move had been arranged.

On March 24 Stuart called and left a message for Reed, in which he stated that the papers at the EOB should be moved to the Archives and sorted there. On March 26 and 27, the papers were moved from the Old and New EOB to the National Archives Building. Also on March 27 Morgan signed a "limited right to access," allowing Newman to work with the 1968 gift papers which had been moved from New York to the Archives on March 20. Newman did this work at the Archives on April 8.

Newman first told the Joint Committee staff that on April 8, 1969, at the request of Frank DeMarco, who in early 1969 replaced Ritzel as the President's tax attorney, he had visited the area housing the papers delivered on March 26 and 27, and verified that there was sufficient volume to cover the $500,000 requirement for a 1969 gift. After that interview, Newman was informed that Sherrod East, an Archives employee, who had escorted Newman at the Archives, stated that Newman had not seen the 1969 material on April 8. Newman thereafter stated that he checked his records, and discovered that his
first contact with DeMarco was in October, 1969 and that before that time he did not see the papers delivered on March 26 and 27.\textsuperscript{15}

DeMarco insisted throughout the Joint Committee and IRS investigations that his first contact with Newman was in April 1969.\textsuperscript{15} He told the Impeachment Inquiry Staff that when talking with the Joint Committee and the IRS he had not remembered a meeting at the White House on October 8, 1969. He told the staff that on that date he met with Morgan and Roger Barth, Assistant to the Commissioner of the Internal Revenue Service. Morgan suggested to him that he contact Newman. On October 31, 1969 he apparently contacted Newman for the first time.\textsuperscript{20}

On April 21, 1969 Morgan had a breakfast meeting with Herbert Kalmbach and Frank DeMarco at the Century Plaza Hotel in Los Angeles, California. DeMarco told the staff Morgan had telephoned him early in April to discuss coming to California, and mentioned that the President had made a gift of his papers to the Archives.\textsuperscript{21} Morgan does not remember such a telephone conversation, but thinks that he must have spoken to DeMarco before leaving Washington.\textsuperscript{22} They both remember, however, that they met for breakfast, drove to San Clemente to see the property, and then drove to the Kalmbach, DeMarco, Knapp & Chillingworth office in Newport Beach. DeMarco first told the Joint Committee staff that a deed was not executed on this day. Morgan's initial recollection was that a deed was executed, and now they both state that on April 21, 1969 Morgan, as Deputy Counsel to the President, signed a deed for the 1969 gift of papers, dated March 27, 1969, at the Newport Beach office.\textsuperscript{23} Morgan does not recall who had given him the authority to sign the
DeMarco told the staff that he had expected Morgan to bring with him some form of Archives receipt for the papers, or a description of them. When he discovered that Morgan did not have it, he typed a temporary "Schedule A" to the deed, "just to have something." Morgan does not remember any conversation about receipts for the papers or a description of them. After the meeting in Newport Beach, Morgan was driven to Los Angeles, and flew out of California.

Both DeMarco and Arthur Blech, an accountant retained by the Kalmbach firm, told the staff of a conversation between them early in May, 1969. In that conversation, DeMarco posed a hypothetical question of a client with an income in the $250,000 - $300,000 range, who had given a gift worth $500,000. He wanted to know for how many years the carryover would be good. After doing the calculations, Blech asked who the donor was, and DeMarco replied that it was the President. Blech told the staff that he dated and kept his notes of this conversation, but that he could not find them.

In Washington on April 21, 1969, the President sent to Congress his proposals for tax reform. The proposals did not include provisions
affecting charitable deductions for gifts of personal papers. On May 27, 1969, the Committee on Ways and Means announced in a press release that it was considering eliminating the charitable deduction for "all gifts of works of art, collections of papers, and other forms of tangible personal property." On July 25, 1969 the Ways and Means Committee announced that it had decided to recommend this action to the House.

On August 2 the Tax Reform Act of 1969 was reported out of the Ways and Means Committee to the House. That Committee recommended that the proceeds from the sale of collections of private papers be taxed as ordinary income (effective after July 25, 1969), and that the charitable deduction for gifts of collections of private papers be eliminated (effective after December 31, 1969). The bill containing these provisions was passed by the House on August 7, 1969.

In a memorandum dated May 27, 1969 a National Archives consultant retained to work on the President's papers noted that the papers delivered to the Archives "... for the most part are not yet deeded to the United States ... [F]urther work should await some further clarification of White House wishes and intentions. ..." There are no National Archives memoranda which indicate that a gift of papers had been made by the President in 1969.

On June 16, 1969 Ehrlichman wrote two memoranda to Morgan, which posed a number of questions relating to the President's taxes. In one of them he asked, "Will you please have someone carefully check his salary withholding to see if it takes into account the fact that he will be making
a full 30% charitable deduction." Morgan apparently referred the questions to IRS Commissioner Randolph Thrower, and they were answered by a memo, dated July 16, 1969, from Roger Barth, assistant to Commissioner Thrower, to Morgan. No mention is made in either the Ehrlichman or the Barth memoranda that the President had made a bulk gift of papers in March 1969.

On November 3, 1969 Newman began his work at the Archives on the papers delivered March 26-27. This was apparently occasioned by a meeting among DeMarco, Morgan and Barth on October 8, and a telephone conversation from DeMarco to Newman on October 31, in which DeMarco requested Newman to go to the Archives and tell him how much was there. On November 7, 1969 Newman sent to the President, with copies to DeMarco and Morgan, a preliminary appraisal of the President's pre-presidential papers, valuing them at $2,012,000.

Newman told the staff that on November 16, 1969 he was in Washington with his wife. A friend, who was a military aide at the White House, arranged for the Newmans to be invited to a White House prayer breakfast on that morning. After the service, Newman said that he and his wife stood in the receiving line. When they reached the President, Newman introduced himself and asked the President if he had received Newman's preliminary appraisal. The President replied that he did receive the appraisal and stated that he did not believe the figure could be so high. Newman told the President that the figure was a conservative estimate.
Newman returned to the Archives on November 17-20 and December 8, 1969 to continue his examination of the President's papers. During that time he worked almost exclusively on the "General Correspondence" file of the President.\footnote{40/}

On November 21, 1969 the Senate Finance Committee reported out its version of the Tax Reform Act, recommending that the charitable deduction for gifts of private papers be eliminated for gifts made after December 31, 1968. This effective date was retained in the bill when it passed the Senate on December 11, 1969.\footnote{42/} On November 26 and December 8, 1969, Edwin S. Cohen, Assistant Secretary of the Treasury for Tax Policy, wrote memoranda to Peter Flanigan, Assistant to the President, on the sections of the proposed tax act which would eliminate charitable deductions for gifts of private papers. In the November 26 memorandum Cohen noted, "if the effective date of the provisions relating to contributions of papers is changed back to that in the House bill (from Dec. 31, 1968 to Dec. 31, 1969), then a contribution could be made in December, 1969 and deducted this year up to 30% of income."\footnote{43/}

On December 22, 1969, the Conference Report on the Tax Reform Act of 1969 recommended an effective date for the elimination of the charitable deduction for gifts of papers of July 25, 1969. This effective date was adopted by both Houses of Congress on the same day. The President signed the bill into law on December 30, 1969.\footnote{45/}

On December 24, 1969 Newman telephoned DeMarco and asked him whether there was anything more to do in light of the deduction for gifts of
papers being eliminated effective July 25, 1969. Newman's telephone bills reflect a call to DeMarco's office on this date. According to Newman, DeMarco told him that there was nothing more for him to do. Newman told the staff that as of the end of 1969 he did not know that a gift of papers had been made by the President. "I thought he'd blown it," he said. DeMarco told the staff that he does not recall the December 24 telephone conversation with Newman.

On January 9 and February 2, 1970 Dr. James Rhoads, Archivist of the United States, wrote the Administrator of General Services that the "second installment" of the President's gift of papers was not given in 1969. On March 3, 1970 Ralph Newman wrote to Frank DeMarco, asking "what the procedure will be with reference to the Nixon papers . . . " in light of the Tax Reform Act of 1969. Newman noted that the President still had material in the Archives which was not affected by the section of the bill eliminating deductions for gifts of papers. DeMarco told the staff that during this period he repeatedly called Newman, asking him to finish the appraisal, and that he also called Morgan, requesting his aid in having Newman do the work. Neither Newman nor Morgan remembers such calls.

On March 27, 1970 Newman said he was called by DeMarco, who told him that the President had made a bulk gift of papers in 1969 and this was accomplished when the papers were delivered to the Archives on March 27, 1969. Newman has told the staff he was surprised when DeMarco told him on March 27, 1970 that the President had made a gift of papers a year earlier.
DeMarco told Newman during that conversation that he needed a description of papers worth around $500,000. Newman told DeMarco that he had selected some materials in late 1969, but would have to go back to the Archives for an additional selection. He called Mary Walton Livingston, an Archives employee, and asked her to select additional items to bring the value up to about $550,000. About an hour later, he received a call from Mrs. Livingston, who described several series of papers to him. Newman telephoned this information to DeMarco and later in the day sent a letter to Mrs. Livingston enclosing a description of the items.

Newman told the staff that in his March 27, 1970 letter to Mrs. Livingston he was careful to say that the items were "designated as a gift by Richard Milhous Nixon in 1969." He said that this is what he had been told by DeMarco, and that he wanted the record to reflect what he had been told. He said that his letter made no reference to his conversations of that day with Mrs. Livingston, or her selection of a portion of the materials for the gift, because he had already thanked her on the phone for her work.

On April 3 Newman called DeMarco and said that he was preparing an appraisal document and would mail it out shortly. Newman did prepare an appraisal document and sent it to DeMarco on April 6 or 7. Included in that document is an affidavit by Newman dated April 6, 1970 which states that Newman examined the papers constituting the 1969 gift on April 6 through 8, November 3 and 17 through 20 and December 8, 1969. Newman stated to the staff that this affidavit was inadvertently incorrect in stating that he examined on April 6 through 8 the papers constituting the 1969 gift. The first time that he viewed the papers delivered to the Archives on March 26.
and 27, 1969 was on November 3, 1969.

On April 6 Newman called Mrs. Livingston. She reported to the Joint Committee staff that Newman said his March 27 letter was the only deed of gift the Archives would receive, and that he wanted an acknowledgment of that letter. She also told the Joint Committee staff that Newman said it would be better for everyone, including the White House, "if all dealings on this point would stay between the two of us." Newman denies stating on April 16 that his March 27 letter would be the only deed of gift the Archives would receive. He acknowledges that he may have said to Mrs. Livingston that "all dealings on this point should stay between the two of us," but explained that he meant that the Archives should not make any public announcement of the President's gift. On April 9, Newman called Mrs. Livingston again. She read him a draft reply to his letter of March 27, 1970. That draft made no acknowledgment of a gift, but simply listed some pre-presidential papers, and noted their date of delivery to the Archives. Newman stated that her letter was sufficient.

DeMarco has stated that after his March 27 telephone call from Newman, he dictated a "Schedule A" to the deed to replace the temporary schedule which he had typed himself on April 21, 1969. He said that on April 7 he noticed that the typestyle, and the color and texture of the paper of the schedule, were different from the type and paper used for the deed executed on April 21, 1969. DeMarco asked his secretary, LaRonna Kueny, to copy the original document so that the appearance of the deed and the schedule would be the same. Mrs. Kueny has testified before the California
Secretary of State that, after typing an original deed in April 1969, she retyped the document in late 1969 or early 1970.

On April 8, DeMarco received the appraisal from Newman, and took it to Blech's office, to attach it to the income tax return. According to DeMarco, at Blech's suggestion, DeMarco also prepared a description sheet to conform with IRS regulations, which stated, "Restrictions: None. The gift was free and clear, with no rights remaining in the taxpayer." After Blech assembled the return, DeMarco flew with it to Washington on April 9.

On April 10, 1970 DeMarco went to Morgan's office in the Executive Office Building. DeMarco has stated that he asked Morgan to "re-execute" the deed which his secretary had retyped, and Morgan did so. In a written statement prepared for the White House in August, 1973, Morgan made no mention of signing a deed of gift in April, 1970. In his interview with the Joint Committee staff, he conceded that the signature on the deed was his, but said that he did not recall signing any deed a second time, nor signing anything on April 10, 1970. He told the Judiciary Committee staff that he now recalls being called out of a meeting by his secretary, going to his office where at DeMarco's request he executed copies of a deed previously executed by him, and returning to the meeting. He does not know whether that event occurred on April 10, 1970.

It should be noted that the deed dated March 27, 1969 in the GSA files is a "duplicate original," that is, a photocopy of an original document which contains autograph signatures and seals. During the early stages of
the Joint Committee and IRS investigations, National Archives personnel pointed out that the Schedule A attached to the deed -- which could not have been composed until March 27, 1970 because some of the papers reflected on the schedule were not selected until that date -- contained the same photocopy marks as the deed itself, which on its face purported to be executed in 1969. DeMarco, in a letter dated August 22, 1973 to Coopers and Lybrand, had stated that a deed was executed on April 21, 1969, and did not mention a re-execution. Morgan, in an August 14, 1973 memorandum to Douglas Parker, an attorney at the White House, emphasized his execution of a deed on April 21, 1969, and did not mention a re-execution. To the Inquiry staff's knowledge, none of the principals involved in the President's deduction for the gift of papers described the re-execution of a deed in 1970 until Archives personnel examined the "duplicate original" and it became apparent that that document could not have been executed in April, 1969.

DeMarco stated that he had an appointment with the President for 12:15 on April 10. He met Kalmbach, his law partner, outside the President's Oval Office, and at 12:20 they were ushered in to see the President. They chatted about California politics and the law business for about five minutes. Then DeMarco explained to the President the double-entry books and the other aspects of the record-keeping system which he and Blech had set up for the President.

Turning to the tax return, DeMarco pointed to the line on the first page of the return showing the refund due the President and said, "That is the bottom line." The President said, "That's fine, that's fine." Then DeMarco explained to the President the major items in the tax return, aside from his salary: the nonrecognition of gain on the sale of his New York
apartment, the deductions taken for interest, and pointed to the appraisal by Newman saying, "This, of course, is the appraisal supporting the deduction for the papers which you gave away." The President's response was, "That's fine."

DeMarco said that there was no discussion about the deed giving the papers to the United States. DeMarco told the President that the gift of papers would be a "tax shelter" for several years. DeMarco stated there was no in-depth analysis of the tax return while he was with the President, but he said there was no question the President knew he was getting a refund and that a basis for the refund was the deduction taken for the gift of papers.

The President signed the return in the presence of DeMarco and Kalmbach and chatted for a few minutes about items other than the tax return. DeMarco told the President that he needed Mrs. Nixon's signature on the return. The President called Mrs. Nixon and told her that DeMarco and Kalmbach were coming up. Kalmbach and DeMarco were escorted to the family quarters to see Mrs. Nixon. She asked, "Where do I sign?" and signed it in the appropriate space. She then asked DeMarco and Kalmbach to help pick out one of two busts of General Eisenhower which had been presented to the White House.

After leaving Mrs. Nixon, DeMarco and Kalmbach went back to Morgan's office. Morgan, Barth and Clinton Walsh, the chief of the Audit Section of the IRS, were there to receive the President's return. Barth and Walsh looked over the return, checked to see that it was signed, put it back in its envelope and left.
About two weeks later in April, DeMarco received a telephone
call from Barth, who said that the 1969 return had been checked and approved,
and that a refund check was being issued on that day.  

2. Sequence of Events Respecting the Reopening of the President's Returns

Donald C. Alexander, Commissioner of the Internal Revenue Service,
told the Impeachment Inquiry staff that after he saw articles in the press
and other indications of public interest in the President's income taxes,
and after the President himself dealt with the subject in a press conference
in November 1973, he raised in his own mind whether the audit of the Presi-
dent's returns for 1971 and 1972 had been "in depth." After considering
the matter, he told Secretary of the Treasury George Shultz, in a meeting
on November 26, 1973, that he was going to reopen the audit of the
President's returns. The Secretary told him to go ahead, and said that he
(Mr. Shultz) would inform General Alexander Haig, Assistant to the President,
of this fact.

Alexander said that he had reached the decision to reopen the audit
on his own. He said he decided to have the IRS examine the President's
tax returns because the information which had been reported would have caused
the examination of the returns of any other taxpayer. Alexander stated
that he had discussed this matter with no one before informing Mr. Shultz
of his decision. He said that he did not want to have to put the Secretary
on the spot by asking him to make the decision, but felt obliged to inform
him.
On the afternoon of November 28, 1973, or on the following day, Alexander arranged for Raymond F. Harless, the Deputy Commissioner, to meet with him on Monday, December 3. At that meeting, they looked at the President's returns. Harless then assembled an in-house audit team, which met with the Commissioner on December 4. On December 5, 1973 Alexander met with an aide and the Baltimore District Director, whose jurisdiction includes Washington, D.C. On December 7, 1973, letters were hand delivered to the White House notifying President and Mrs. Nixon that their federal income tax returns for the years 1970, 1971 and 1972 would be re-examined.

Alexander said that on December 7 the White House requested copies of the President's tax returns; they were sent over that evening. On December 8 the President wrote to Chairman Wilbur Mills asking the Joint Committee on Internal Revenue Taxation to examine his tax returns for the years 1969-1972 in order to answer questions which had been raised in the press concerning his personal finances as President. This letter was made public. There was no public announcement that on December 7 the President had been officially notified by the Internal Revenue Service that his tax returns would be audited.

On February 4, 1974, Referral Reports for Potential Fraud Cases were submitted by the Audit Division, Baltimore District, to the Intelligence Division, Baltimore District, naming Frank DeMarco, Ralph Newman, and Edward Morgan as potential subjects. DeMarco, Newman and Morgan were placed under full scale investigation by the Intelligence Division, Baltimore District, on February 20, 1974.
On March 28, 1974, it was recommended to the District Director, Baltimore District, that the true story concerning the gift of the President's papers and the preparation of his 1969 income tax return could only be arrived at by a Grand Jury proceeding. The report recommending this action, signed by William N. Jackson, Group Manager "01", Baltimore District Office, names DeMarco, Newman and Morgan as the subjects of the investigation. On April 2, 1974 this report was referred to the office of the Special Prosecutor for possible action.

The Internal Revenue Service notified President and Mrs. Nixon on April 2, 1974, that an adjustment of their tax liability was necessary for the years 1970, 1971 and 1972. A copy of the audit report justifying a tax deficiency of $271,148.72 and a five per cent negligence penalty of $13,557.44 was enclosed. Also sent to President and Mrs. Nixon was a report on tax year 1969, which noted a tax deficiency of $148,080.97. In his covering letter, Gerald G. Portney, the new Baltimore District Director, noted that there was no legal obligation to pay the 1969 deficiency. The total deficiency for the years 1969 through 1972, including the negligence penalty for 1970 through 1972, was $432,787.13. On April 3, 1974 the White House issued a statement that the President has "today instructed payment of the $432,787.13 set forth by the Internal Revenue Service, plus interest."

On April 17, 1974, the President and Mrs. Nixon paid by check the amount of deficiency and penalty for 1970, 1971 and 1972, totalling $284,706.16. On June 19, 1974 the staff was informed by William E. Williams, Deputy Commissioner of the Internal Revenue Service, that the President had
not yet paid the 1969 deficiency of $148,080.97 and that no date has been set for such payment. Commissioner Williams also stated that the IRS has been in contact with representatives of the President and it is the impression of the IRS that the President is considering the payment of the 1969 deficiency.

* * *

In connection with the preparation of this report the Impeachment Inquiry Staff has interviewed Frank DeMarco (May 29 and May 30, 1974); Arthur Blech (May 30, 1974); Ralph Newman (June 7, 1974); Richard Ritzel (June 10, 1974); Donald C. Alexander (June 13, 1974) and Edward L. Morgan (June 15, 1974).

Attached to this report are the following documents which were obtained from the Internal Revenue Service:

1. Photocopy of November 28, 1973 diary notes of IRS Commissioner Donald C. Alexander.


3. Letters dated December 7, 1973 from William D. Waters, District Director, Baltimore District, to President and Mrs. Nixon.

4. Section of IRS Audit Report recommending fraud referral report.

6. Undated and unsigned memorandum entitled "Consideration of the Assertion of the 50% Civil Fraud Penalty," from IRS files.


9. Letter dated April 2, 1974, from Gerald G. Portney, District Director, Baltimore District to President and Mrs. Nixon.


11. Section of IRS Audit Report recommending assessment of negligence penalty.

12. Questions for President Nixon, with Joint Committee staff transmittal letter dated March 22, 1974.

13. IRS Memorandum for the Record dated March 22, 1974. Attached are the following memoranda: from John Ehrlichman to Herbert Kalmbach, dated August 12, 1969; from Roger Barth to Edward L. Morgan, dated July 16, 1969; and from John Ehrlichman to Edward L. Morgan, dated June 16, 1969.


15. Memorandum on Charitable Contributions and Deductions, dated February 6, 1969, to the President from John Ehrlichman.
FOOTNOTES


President Nixon news conference, February 25, 1974, 10 Presidential Documents 256.


Richard Ritzel interview, HJC, June 10, 1974, 1, 2.


Richard Ritzel interview, HJC, June 10, 1974, 1, 2.


5. Memorandum from Richard Ritzel to President-elect Nixon, December 27, 1968 (received from Joint Committee).


Draft deed not used by the President (received from Joint Committee).

Joint Committee Report, 12.


7. Joint Committee Report, 12.

Richard Ritzel interview, HJC, June 10, 1974, 4-5.

8. Joint Committee Report, 12.

9. Joint Committee Report, 42.


5 Presidential Documents 309, 356.


Letter from Charles Stuart to Daniel Reed, March 14, 1969, Joint Committee Report, A-190.


18. Joint Committee Report, 61-64.


20. Frank DeMarco interview, HJC, May 29 and May 30, 1974, 9-11. (see nn. 36 and 37)


Memorandum from Frank DeMarco to Laurence Woodworth, Chief of Staff, Joint Committee, February 21, 1974, Joint Committee Report, A-163-65.


Joint Committee Report, 48-49.

23. Joint Committee Report, 87-90.


Herbert Kalmbach statement before California Secretary of State, February 21, 1974, 9 (received from California Secretary of State).

Frank DeMarco statement before California Secretary of State, January 30, 1974, 15-17 (received from California Secretary of State).


Joint Committee Report 90-91.


27. Frank DeMarco interview, HJC, May 29 and May 30, 1974, 5-6.

Edward L. Morgan interview, HJC, June 5, 1974, 17.


Frank DeMarco interview, HJC, May 29 and May 30, 1974, 7-8.


Memorandum from Paul Oosterhuis to Laurence Woodworth, December 28, 1973 (received from Joint Committee).


H. R. 13720 as passed by House, August 7, 1969, §§ 201(c), 201(d), 513.


33. Joint Committee Report, 69, 76-77.

34. Memorandum from John Ehrlichman to Edward L. Morgan, June 16, 1969 (received from Joint Committee).
Memorandum from John Ehrlichman to Edward L. Morgan, June 16, 1969 (received from Joint Committee).

35. Memorandum from Roger Barth to Edward L. Morgan, July 16, 1969 (received from Joint Committee).


37. Joint Committee Report, 70.


40. Joint Committee Report, 70-75.

41. Senate Report 91-552, Tax Reform Act of 1969, 1645, 2027, 2109-12, 2233-34.

42. H.R. 13720 as passed by the Senate, December 11, 1969, §§ 201(a), 514.

43. Letter from Edwin Cohen to Laurence Woodworth, February 1, 1974 (received from Joint Committee).

Memorandum from Edwin Cohen to Peter Flanigan, November 26, 1969, 4 (received from Joint Committee).

Memorandum from Edwin Cohen to Peter Flanigan, December 8, 1969 (received from Joint Committee).

44. Conference Report 91-782, 1645, 2392, 2408, 2432-33.


46. Joint Committee Report, 75.


Memorandum from the Archivist of the United States to the Administrator, General Services Administration, February 2, 1970, Joint Committee Report, A-267-70.


53. Joint Committee Report, 79-84.


Ralph Newman interview, HJC, June 7, 1974, 14.


57. Joint Committee Report, 82-83.


Ralph Newman interview, HJC, June 7, 1974, 15.


Frank DeMarco interview, HJC, May 29 and May 30, 1974, 16-17.

59. LaRonna Kueny statement before California Secretary of State, January 24, 1974, 16-17 (received from California Secretary of State).

60. Frank DeMarco interview, HJC, May 29 and 30, 1974, 20.


Memorandum from Frank DeMarco to Laurence Woodworth, February 5, 1974, Joint Committee Report, A-163, 179-80.


63. Joint Committee Report 92-93.

64. Edward Morgan interview, HJC, June 15, 1974, 21.

65. Joint Committee Report, 85.


REPORT RESPECTING DEDUCTION
TAKEN BY THE PRESIDENT FOR YEARS
1969 THROUGH 1972 FOR GIFT OF
PAPERS CLAIMED TO BE MADE
ON MARCH 27, 1969

1. Sequence of Events Respecting Deduction

After his election in November, 1968, President-elect Nixon paid a courtesy call on President Lyndon B. Johnson at the White House. President Nixon has stated that at that meeting he was advised by President Johnson to look into contributing some of his personal papers to the National Archives, and taking a tax deduction for the value of the papers contributed. At the same meeting, or soon thereafter, President Johnson or one of his staff gave to Mr. Nixon or one of his staff the name of Ralph Newman, who had appraised President Johnson's papers.

On December 19, 1968 Mr. Nixon met at his New York apartment with Richard Ritzel, one of his partners in the law firm of Nixon Mudge Rose Guthrie Alexander & Mitchell, and asked Ritzel to look into the possibility of Mr. Nixon's making a gift of this kind and taking the tax deduction thus made available. Ritzel concluded that a gift could be made, but that time was of the essence because the end of the year was approaching. Ritzel reported this conclusion to Mr. Nixon. On December 22, 1968 the President-elect told Ritzel to go ahead with the gift. Ritzel asked one of his partners, Pat Tannian, to draft Mr. Nixon's deed of gift. Tannian drafted two versions, one containing restrictions on access to the papers while Mr. Nixon was President, and the other containing no such restrictions.

Egil Krogh and Edward L. Morgan, who worked for John Ehrlichman on the administration transition staff (and who each later became deputy
counsel when Ehrlichman became Counsel to the President after the inau-
guration), were asked by Ehrlichman to assist Ritzel in the transfer of the
papers. On December 27 or 28 Krogh flew to Key Biscayne, bearing the
two versions of the deed of gift, and a covering memorandum to Mr. Nixon
from Ritzel. In the memorandum Ritzel outlined the differences in the two
deeds, noted the target figure of $60,000 for a gift which had been suggested
by Mr. Nixon's accountant, and suggested that Mr. Nixon sign both versions
of the deed so that either could be used, depending on whether or not
papers "which should be restricted from public perusal while you are the
President" were selected by Newman for giving.

On the evening of December 28 Ritzel was telephoned at his New
Jersey home by Mr. Nixon. In the conversation, which lasted about twenty
minutes, they discussed Ritzel's memorandum -- in particular, the problem of
whether public access to the papers should be restricted. Mr. Nixon said
that he was going to execute the restrictive deed, and gave Ritzel authority
to annex to that deed a description of the papers selected for the gift
when Newman chose them.

On December 29 Krogh arrived in the Nixon Mudge law offices with
the executed deed of gift. Morgan and Ritzel were present while Newman
and Loie Gaunt, a long-time assistant to Rose Mary Woods, selected the
papers for the gift. After the selection was completed, an exhibit describ-
ing those papers was drawn up and attached to the executed deed. The next
day a representative of the General Services Administration, of which the
National Archives is a division, countersigned the deed as "accepted." Mr.
Nixon's papers were then transferred from the Nixon Mudge offices to a GSA
truck, which took them to a federal records center in New York City.

When the President's tax return for 1968 was prepared, the gift was valued by Newman at $80,000. Of this, $70,552.27 was deducted for tax year 1968, and $9,447.73 was available as a deduction carryover for future years. Also, in accordance with Internal Revenue Service regulations, a statement was attached to the return, which included information as to the existence of any restrictions on the gift. It said in substance that the gift was free and clear with no rights remaining in the taxpayer.

After the Inauguration, on February 6, 1969, John Ehrlichman wrote a memorandum to the President on the subject of "Charitable Contributions and Deductions." Ehrlichman recited the 1968 gift of papers, and suggested that the President could continue to obtain the maximum charitable deduction of 30 percent of his adjusted gross income by first contributing to charities proceeds from the sale of the President's writings in an amount equal to 20 percent of his adjusted gross income. With respect to "the remaining 10 percent," Ehrlichman's memorandum noted that it would "be made up of a gift of your papers to the United States. In this way, we contemplate keeping the papers as a continuing reserve which we can use from now on to supplement other gifts to add up to the 30% maximum." There is a notation on the memorandum, apparently in the President's handwriting, which states "(1) good (2) Let me know what we can do on the foundation idea -- ." There is no reference in the February 6 memorandum to making a bulk gift of papers in the year 1969 which would be sufficient for the President's 30% charitable deduction for 1969 and succeeding years.
Both Ritzel and Morgan have told the staff that there were probably discussions during this time on the desirability of giving the remainder of the President's pre-presidential papers to the National Archives. They noted that this question had been discussed in 1968, but that there had been barely enough time for a one-year gift then, not to mention selecting papers for a massive gift. They did not recall any instructions from the President with respect to a bulk gift of papers.

In a February 28, 1969 response to earlier letters from Krogh, Ritzel noted that if Newman's appraisal of the 1968 gift proved to be "higher than anticipated, it will have to be taken into consideration in making any gifts this year." He also wrote, "If you will recall, it had not been our plan to give any of the Presidential papers, within the near future, to the Government since Newman made it quite clear to us that the volume of Vice Presidential papers which we had would undoubtedly take care of the deduction for a number of years, and the thought was that we would use the oldest first, with the hope that we would be able to get the full deduction for practically the entire life of the President." Ritzel's letter makes no mention of a bulk gift of the President's papers.

Morgan and Ehrlichman were with the Presidential party in Europe during the President's visit from February 23 to March 2, 1969. On March 11, Morgan and Charles Stuart, also of Ehrlichman's staff, met with Walter Robertson, Executive Director of the National Archives, and Daniel Reed, Assistant Archivist for Presidential Libraries. They discussed Presidential libraries, the transfer of the 1968 gift papers from New York to the Archives
in Washington, and adding an archivist to the White House staff. In addition, the Archives officials agreed to organize and inventory a large body of President Nixon's pre-presidential papers located in the New Executive Office Building, and to recommend appropriate disposition of this material. After that meeting Archives personnel found that the space in the EOB was inadequate for doing archival work on the President's papers, and suggested that the papers be moved from the EOB to the Archives. Stuart wrote Dr. Reed on March 14, confirming that the logistics of the move had been arranged.

On March 24 Stuart called and left a message for Reed, in which he stated that the papers at the EOB should be moved to the Archives and sorted there. On March 26 and 27, the papers were moved from the Old and New EOB to the National Archives Building. Also on March 27 Morgan signed a "limited right to access," allowing Newman to work with the 1968 gift papers which had been moved from New York to the Archives on March 20. Newman did this work at the Archives on April 8.

Newman first told the Joint Committee staff that on April 8, 1969, at the request of Frank DeMarco, who in early 1969 replaced Ritzel as the President's tax attorney, he had visited the area housing the papers delivered on March 26 and 27, and verified that there was sufficient volume to cover the $500,000 requirement for a 1969 gift. After that interview, Newman was informed that Sherrod East, an Archives employee, who had escorted Newman at the Archives, stated that Newman had not seen the 1969 material on April 8. Newman thereafter stated that he checked his records, and discovered that his
first contact with DeMarco was in October, 1969 and that before that time he did not see the papers delivered on March 26 and 27.

DeMarco insisted throughout the Joint Committee and IRS investigations that his first contact with Newman was in April 1969. He told the Impeachment Inquiry Staff that when talking with the Joint Committee and the IRS he had not remembered a meeting at the White House on October 8, 1969. He told the staff that on that date he met with Morgan and Roger Barth, Assistant to the Commissioner of the Internal Revenue Service. Morgan suggested to him that he contact Newman. On October 31, 1969 he apparently contacted Newman for the first time.

On April 21, 1969 Morgan had a breakfast meeting with Herbert Kalmbach and Frank DeMarco at the Century Plaza Hotel in Los Angeles, California. DeMarco told the staff Morgan had telephoned him early in April to discuss coming to California, and mentioned that the President had made a gift of his papers to the Archives. Morgan does not remember such a telephone conversation, but thinks that he must have spoken to DeMarco before leaving Washington. They both remember, however, that they met for breakfast, drove to San Clemente to see the property, and then drove to the Kalmbach, DeMarco, Knapp & Chillingworth office in Newport Beach. DeMarco first told the Joint Committee staff that a deed was not executed on this day. Morgan’s initial recollection was that a deed was executed, and now they both state that on April 21, 1969 Morgan, as Deputy Counsel to the President, signed a deed for the 1969 gift of papers, dated March 27, 1969, at the Newport Beach office. Morgan does not recall who had given him the authority to sign the
deed on April 21, 1969 and he states that quite possibly he assumed the
authority relying on DeMarco as the President's tax attorney. He had never
previously signed a deed on behalf of the President. DeMarco told the
staff that he based the 1969 deed on the 1968 deed, which he received from
either Morgan or Kalmbach. Neither Morgan nor Kalmbach remembers sending
it to DeMarco. DeMarco also said that only one copy of the deed was executed
in 1969, and that at all times he kept that copy in his personal custody.

DeMarco told the staff that he had expected Morgan to bring with
him some form of Archives receipt for the papers, or a description of them.
When he discovered that Morgan did not have it, he typed a temporary
"Schedule A" to the deed, "just to have something." Morgan does not remember
any conversation about receipts for the papers or a description of them.
After the meeting in Newport Beach, Morgan was driven to Los Angeles, and
flew out of California.

Both DeMarco and Arthur Blech, an accountant retained by the
Kalmbach firm, told the staff of a conversation between them early in May,
1969. In that conversation, DeMarco posed a hypothetical question of a client
with an income in the $250,000 - $300,000 range, who had given a gift worth
$500,000. He wanted to know for how many years the carryover would be good.
After doing the calculations, Blech asked who the donor was, and DeMarco
replied that it was the President. Blech told the staff that he dated and
kept his notes of this conversation, but that he could not find them.

In Washington on April 21, 1969, the President sent to Congress
his proposals for tax reform. The proposals did not include provisions
affecting charitable deductions for gifts of personal papers. On May 27, 1969, the Committee on Ways and Means announced in a press release that it was considering eliminating the charitable deduction for "all gifts of works of art, collections of papers, and other forms of tangible personal property." On July 25, 1969 the Ways and Means Committee announced that it had decided to recommend this action to the House.

On August 2 the Tax Reform Act of 1969 was reported out of the Ways and Means Committee to the House. That Committee recommended that the proceeds from the sale of collections of private papers be taxed as ordinary income (effective after July 25, 1969), and that the charitable deduction for gifts of collections of private papers be eliminated (effective after December 31, 1969). The bill containing these provisions was passed by the House on August 7, 1969.

In a memorandum dated May 27, 1969 a National Archives consultant retained to work on the President's papers noted that the papers delivered to the Archives "... for the most part are not yet deeded to the United States ... [F]urther work should await some further clarification of White House wishes and intentions. ..." There are no National Archives memoranda which indicate that a gift of papers had been made by the President in 1969.

On June 16, 1969 Ehrlichman wrote two memoranda to Morgan, which posed a number of questions relating to the President's taxes. In one of them he asked, "Will you please have someone carefully check his salary withholding to see if it takes into account the fact that he will be making
a full 30% charitable deduction." Morgan apparently referred the questions to IRS Commissioner Randolph Thrower, and they were answered by a memo, dated July 16, 1969, from Roger Barth, assistant to Commissioner Thrower, to Morgan. No mention is made in either the Ehrlichman or the Barth memorandum that the President had made a bulk gift of papers in March 1969.

On November 3, 1969 Newman began his work at the Archives on the papers delivered March 26-27. This was apparently occasioned by a meeting among DeMarco, Morgan and Barth on October 8, and a telephone conversation from DeMarco to Newman on October 31, in which DeMarco requested Newman to go to the Archives and tell him how much was there. On November 7, 1969 Newman sent to the President, with copies to DeMarco and Morgan, a preliminary appraisal of the President's pre-presidential papers, valuing them at $2,012,000.

Newman told the staff that on November 16, 1969 he was in Washington with his wife. A friend, who was a military aide at the White House, arranged for the Newmans to be invited to a White House prayer breakfast on that morning. After the service, Newman said that he and his wife stood in the receiving line. When they reached the President, Newman introduced himself and asked the President if he had received Newman's preliminary appraisal. The President replied that he did receive the appraisal and stated that he did not believe the figure could be so high. Newman told the President that the figure was a conservative estimate.
Newman returned to the Archives on November 17–20 and December 8, 1969 to continue his examination of the President's papers. During that time he worked almost exclusively on the "General Correspondence" file of the President.

On November 21, 1969 the Senate Finance Committee reported out its version of the Tax Reform Act, recommending that the charitable deduction for gifts of private papers be eliminated for gifts made after December 31, 1968. This effective date was retained in the bill when it passed the Senate on December 11, 1969. On November 26 and December 8, 1969, Edwin S. Cohen, Assistant Secretary of the Treasury for Tax Policy, wrote memoranda to Peter Flanigan, Assistant to the President, on the sections of the proposed tax act which would eliminate charitable deductions for gifts of private papers. In the November 26 memorandum Cohen noted, "if the effective date of the provisions relating to contributions of papers is changed back to that in the House bill (from Dec. 31, 1968 to Dec. 31, 1969), then a contribution could be made in December, 1969 and deducted this year up to 30% of income. . . ."

On December 22, 1969, the Conference Report on the Tax Reform Act of 1969 recommended an effective date for the elimination of the charitable deduction for gifts of papers of July 25, 1969. This effective date was adopted by both Houses of Congress on the same day. The President signed the bill into law on December 30, 1969.

On December 24, 1969 Newman telephoned DeMarco and asked him whether there was anything more to do in light of the deduction for gifts of
papers being eliminated effective July 25, 1969. Newman's telephone bills reflect a call to DeMarco's office on this date. According to Newman, DeMarco told him that there was nothing more for him to do. Newman told the staff that as of the end of 1969 he did not know that a gift of papers had been made by the President. "I thought he'd blown it," he said. DeMarco told the staff that he does not recall the December 24 telephone conversation with Newman.

On January 9 and February 2, 1970 Dr. James Rhoads, Archivist of the United States, wrote the Administrator of General Services that the "second installment" of the President's gift of papers was not given in 1969. On March 3, 1970 Ralph Newman wrote to Frank DeMarco, asking "what the procedure will be with reference to the Nixon papers . . ." in light of the Tax Reform Act of 1969. Newman noted that the President still had material in the Archives which was not affected by the section of the bill eliminating deductions for gifts of papers. DeMarco told the staff that during this period he repeatedly called Newman, asking him to finish the appraisal, and that he also called Morgan, requesting his aid in having Newman do the work. Neither Newman nor Morgan remembers such calls.

On March 27, 1970 Newman said he was called by DeMarco, who told him that the President had made a bulk gift of papers in 1969 and this was accomplished when the papers were delivered to the Archives on March 27, 1969. Newman has told the staff he was surprised when DeMarco told him on March 27, 1970 that the President had made a gift of papers a year earlier.
DeMarco told Newman during that conversation that he needed a description of papers worth around $500,000. Newman told DeMarco that he had selected some materials in late 1969, but would have to go back to the Archives for an additional selection. He called Mary Walton Livingston, an Archives employee, and asked her to select additional items to bring the value up to about $550,000. About an hour later, he received a call from Mrs. Livingston, who described several series of papers to him. Newman telephoned this information to DeMarco and later in the day sent a letter to Mrs. Livingston enclosing a description of the items.

Newman told the staff that in his March 27, 1969 letter to Mrs. Livingston he was careful to say that the items were "designated as a gift by Richard Milhous Nixon in 1969." He said that this is what he had been told by DeMarco, and that he wanted the record to reflect what he had been told. He said that his letter made no reference to his conversations of that day with Mrs. Livingston, or her selection of a portion of the materials for the gift, because he had already thanked her on the phone for her work.

On April 3 Newman called DeMarco and said that he was preparing an appraisal document and would mail it out shortly. Newman did prepare an appraisal document and sent it to DeMarco on April 6 or 7. Included in that document is an affidavit by Newman dated April 6, 1970 which states that Newman examined the papers constituting the 1969 gift on April 6 through 8, November 3 and 17 through 20 and December 8, 1969. Newman stated to the staff that this affidavit was inadvertently incorrect in stating that he examined on April 6 through 8 the papers constituting the 1969 gift. The first time that he viewed the papers delivered to the Archives on March 26
and 27, 1969 was on November 3, 1969.

On April 6 Newman called Mrs. Livingston. She reported to the Joint Committee staff that Newman said his March 27 letter was the only deed of gift the Archives would receive, and that he wanted an acknowledgment of that letter. She also told the Joint Committee staff that Newman said it would be better for everyone, including the White House, "if all dealings on this point would stay between the two of us." Newman denies stating on April 16 that his March 27 letter would be the only deed of gift the Archives would receive. He acknowledges that he may have said to Mrs. Livingston that "all dealings on this point should stay between the two of us," but explained that he meant that the Archives should not make any public announcement of the President's gift. On April 9, Newman called Mrs. Livingston again. She read him a draft reply to his letter of March 27, 1970. That draft made no acknowledgment of a gift, but simply listed some pre-presidential papers, and noted their date of delivery to the Archives. Newman stated that her letter was sufficient.

DeMarco has stated that after his March 27 telephone call from Newman, he dictated a "Schedule A" to the deed to replace the temporary schedule which he had typed himself on April 21, 1969. He said that on April 7 he noticed that the typestyle, and the color and texture of the paper of the schedule, were different from the type and paper used for the deed executed on April 21, 1969. DeMarco asked his secretary, LaRonna Kueny, to copy the original document so that the appearance of the deed and the schedule would be the same. Mrs. Kueny has testified before the California
Secretary of State that, after typing an original deed in April 1969, she retyped the document in late 1969 or early 1970.

On April 8, DeMarco received the appraisal from Newman, and took it to Blech's office, to attach it to the income tax return. According to DeMarco, at Blech's suggestion, DeMarco also prepared a description sheet to conform with IRS regulations, which stated, "Restrictions: None. The gift was free and clear, with no rights remaining in the taxpayer."

After Blech assembled the return, DeMarco flew with it to Washington on April 9.

On April 10, 1970 DeMarco went to Morgan's office in the Executive Office Building. DeMarco has stated that he asked Morgan to "re-execute" the deed which his secretary had retyped, and Morgan did so. In a written statement prepared for the White House in August, 1973, Morgan made no mention of signing a deed of gift in April, 1970. In his interview with the Joint Committee staff, he conceded that the signature on the deed was his, but said that he did not recall signing any deed a second time, nor signing anything on April 10, 1970. He told the Judiciary Committee staff that he now recalls being called out of a meeting by his secretary, going to his office where at DeMarco's request he executed copies of a deed previously executed by him, and returning to the meeting. He does not know whether that event occurred on April 10, 1970.

It should be noted that the deed dated March 27, 1969 in the GSA files is a "duplicate original," that is, a photocopy of an original document which contains autograph signatures and seals. During the early stages of
the Joint Committee and IRS investigations, National Archives personnel pointed out that the Schedule A attached to the deed -- which could not have been composed until March 27, 1970 because some of the papers reflected on the schedule were not selected until that date -- contained the same photocopy marks as the deed itself, which on its face purported to be executed in 1969. DeMarco, in a letter dated August 22, 1973 to Coopers and Lybrand, had stated that a deed was executed on April 21, 1969, and did not mention a re-execution. Morgan, in an August 14, 1973 memorandum to Douglas Parker, an attorney at the White House, emphasized his execution of a deed on April 21, 1969, and did not mention a re-execution. To the Inquiry staff's knowledge, none of the principals involved in the President's deduction for the gift of papers described the re-execution of a deed in 1970 until Archives personnel examined the "duplicate original" and it became apparent that that document could not have been executed in April, 1969.

DeMarco stated that he had an appointment with the President for 12:15 on April 10. He met Kalmbach, his law partner, outside the President's Oval Office, and at 12:20 they were ushered in to see the President. They chatted about California politics and the law business for about five minutes. Then DeMarco explained to the President the double-entry books and the other aspects of the record-keeping system which he and Blech had set up for the President.

Turning to the tax return, DeMarco pointed to the line on the first page of the return showing the refund due the President and said, "That is the bottom line." The President said, "That's fine, that's fine." Then DeMarco explained to the President the major items in the tax return, aside from his salary: the nonrecognition of gain on the sale of his New York
apartment, the deductions taken for interest, and pointed to the appraisal by Newman saying, "This, of course, is the appraisal supporting the deduction for the papers which you gave away." The President's response was, "That's fine."

DeMarco said that there was no discussion about the deed giving the papers to the United States. DeMarco told the President that the gift of papers would be a "tax shelter" for several years. DeMarco stated there was no in-depth analysis of the tax return while he was with the President, but he said there was no question the President knew he was getting a refund and that a basis for the refund was the deduction taken for the gift of papers.

The President signed the return in the presence of DeMarco and Kalmbach and chatted for a few minutes about items other than the tax return. DeMarco told the President that he needed Mrs. Nixon's signature on the return. The President called Mrs. Nixon and told her that DeMarco and Kalmbach were coming up. Kalmbach and DeMarco were escorted to the family quarters to see Mrs. Nixon. She asked, "Where do I sign?" and signed it in the appropriate space. She then asked DeMarco and Kalmbach to help pick out one of two busts of General Eisenhower which had been presented to the White House.

After leaving Mrs. Nixon, DeMarco and Kalmbach went back to Morgan's office. Morgan, Barth and Clinton Walsh, the chief of the Audit Section of the IRS, were there to receive the President's return. Barth and Walsh looked over the return, checked to see that it was signed, put it back in its envelope and left.
About two weeks later in April, DeMarco received a telephone call from Barth, who said that the 1969 return had been checked and approved, and that a refund check was being issued on that day.

2. Sequence of Events Respecting the Reopening of the President's Returns

Donald C. Alexander, Commissioner of the Internal Revenue Service, told the Impeachment Inquiry staff that after he saw articles in the press and other indications of public interest in the President's income taxes, and after the President himself dealt with the subject in a press conference in November 1973, he raised in his own mind whether the audit of the President's returns for 1971 and 1972 had been "in depth." After considering the matter, he told Secretary of the Treasury George Shultz, in a meeting on November 28, 1973, that he was going to reopen the audit of the President's returns. The Secretary told him to go ahead, and said that he (Mr. Shultz) would inform General Alexander Haig, Assistant to the President, of this fact.

Alexander said that he had reached the decision to reopen the audit on his own. He said he decided to have the IRS examine the President's tax returns because the information which had been reported would have caused the examination of the returns of any other taxpayer. Alexander stated that he had discussed this matter with no one before informing Mr. Shultz of his decision. He said that he did not want to have to put the Secretary on the spot by asking him to make the decision, but felt obliged to inform him.
On the afternoon of November 28, 1973, or on the following day, Alexander arranged for Raymond F. Harless, the Deputy Commissioner, to meet with him on Monday, December 3. At that meeting, they looked at the President's returns. Harless then assembled an in-house audit team, which met with the Commissioner on December 4. On December 5, 1973, Alexander met with an aide and the Baltimore District Director, whose jurisdiction includes Washington, D.C. On December 7, 1973, letters were hand delivered to the White House notifying President and Mrs. Nixon that their federal income tax returns for the years 1970, 1971 and 1972 would be re-examined.

Alexander said that on December 7, the White House requested copies of the President's tax returns; they were sent over that evening. On December 8, the President wrote to Chairman Wilbur Mills asking the Joint Committee on Internal Revenue Taxation to examine his tax returns for the years 1969-1972 in order to answer questions which had been raised in the press concerning his personal finances as President. This letter was made public. There was no public announcement that on December 7, the President had been officially notified by the Internal Revenue Service that his tax returns would be audited.

On February 4, 1974, Referral Reports for Potential Fraud Cases were submitted by the Audit Division, Baltimore District, to the Intelligence Division, Baltimore District, naming Frank DeMarco, Ralph Newman, and Edward Morgan as potential subjects. DeMarco, Newman and Morgan were placed under full scale investigation by the Intelligence Division, Baltimore District, on February 20, 1974.

Folsom

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On March 28, 1974, it was recommended to the District Director, Baltimore District, that the true story concerning the gift of the President's papers and the preparation of his 1969 income tax return could only be arrived at by a Grand Jury proceeding. The report recommending this action, signed by William N. Jackson, Group Manager "01", Baltimore District Office, names DeMarco, Newman and Morgan as the subjects of the investigation. On April 2, 1974 this report was referred to the office of the Special Prosecutor for possible action.

The Internal Revenue Service notified President and Mrs. Nixon on April 2, 1974, that an adjustment of their tax liability was necessary for the years 1970, 1971 and 1972. A copy of the audit report justifying a tax deficiency of $271,148.72 and a five per cent negligence penalty of $13,557.44 was enclosed. Also sent to President and Mrs. Nixon was a report on tax year 1969, which noted a tax deficiency of $148,080.97. In his covering letter, Gerald G. Portney, the new Baltimore District Director, noted that there was no legal obligation to pay the 1969 deficiency. The total deficiency for the years 1969 through 1972, including the negligence penalty for 1970 through 1972, was $432,787.13. On April 3, 1974 the White House issued a statement that the President has "today instructed payment of the $432,787.13 set forth by the Internal Revenue Service, plus interest."

On April 17, 1974, the President and Mrs. Nixon paid by check the amount of deficiency and penalty for 1970, 1971 and 1972, totalling $284,706.16. On June 19, 1974 the staff was informed by William E. Williams, Deputy Commissioner of the Internal Revenue Service, that the President had
not yet paid the 1969 deficiency of $148,080.97 and that no date has been set for such payment. Commissioner Williams also stated that the IRS has been in contact with representatives of the President and it is the impression of the IRS that the President is considering the payment of the 1969 deficiency.

* * *

In connection with the preparation of this report the Impeachment Inquiry Staff has interviewed Frank DeMarco (May 29 and May 30, 1974); Arthur Blech (May 30, 1974); Ralph Newman (June 7, 1974); Richard Ritzel (June 10, 1974); Donald C. Alexander (June 13, 1974) and Edward L. Morgan (June 15, 1974).

Attached to this report are the following documents which were obtained from the Internal Revenue Service:

1. Photocopy of November 28, 1973 diary notes of IRS Commissioner Donald C. Alexander.


3. Letters dated December 7, 1973 from William D. Waters, District Director, Baltimore District, to President and Mrs. Nixon.

4. Section of IRS Audit Report recommending fraud referral report.

6. Undated and unsigned memorandum entitled "Consideration of the Assertion of the 50% Civil Fraud Penalty," from IRS files.


9. Letter dated April 2, 1974, from Gerald G. Portney, District Director, Baltimore District to President and Mrs. Nixon.


11. Section of IRS Audit Report recommending assessment of negligence penalty.

12. Questions for President Nixon, with Joint Committee staff transmittal letter dated March 22, 1974.
WEDNESDAY
NOVEMBER 28 1973
APPOINTMENTS & SCHEDULED EVENTS

After staff at Treasury, I went in Secy's office w Secy & Ron Brooks. talked on 3 Subjects -- Bill [item crossed-out in the original] and President's tax return. I said in best interests of IRS & President for us to audit. Said Judiciary Committee & Ways & Means (Joint Comm) about to go into this & force issue. Secy said [illegible] go ahead, said he would talk Gen. Haig. Said lawyers would cause downfall of Govt.
Secy. Asked re investigations. I mentioned [crossed out] time problem, work load

[items crossed out] ]
[fun in original ]

] He would need talking paper for this.

I told Ron later that [crossed out] investigation continuing.
TO BE DONE TODAY (NUMBER EACH ITEM)

Item 1: Attend to Trump, I

Meet in Barr's Office on Friday, Dec. 11, 10:00 AM

Item 2: Review old winter

Please note, I did not get a notification on the new winter coat. I tried to go into the store, but they said they already sold it. I will call Com. Thing, and let you know what happened.

EXPENSE & REIMBURSEMENT RECORD:

[Handwritten and redacted entries]
Re-opening memorandum
December 7, 1973

Richard M. and Patricia R. Nixon
The White House
Washington, D.C. 20500

SECTION A - CLEARANCE RECORD

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<th>TO:</th>
<th>DECISION</th>
<th>SIGNATURE</th>
<th>SYMBOLS</th>
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<td>AV:AC</td>
<td>12-7-73</td>
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<tr>
<td>CHIEF, AUDIT DIVISION</td>
<td>Approved</td>
<td>Allen O. L., Jr.</td>
<td>AV:AC</td>
<td>12-7-73</td>
</tr>
<tr>
<td>DISTRICT DIRECTOR</td>
<td>Approved</td>
<td>Allen O. L., Jr.</td>
<td>AV:AC</td>
<td>12-7-73</td>
</tr>
<tr>
<td>ARC (AUDIT) OR DIRECTOR, OIC</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OTHER (Specify)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

SECTION B - JUSTIFYING DATE

1. REASON FOR REQUEST (Place an “X” in the appropriate block)

☐ A. EVIDENCE OF FRAUD, MALFEA-
SANCE, COLLUSION, CONCEAL-
MENT, OR MISREPRESENTATION
OF MATERIAL FACT.

☐ B. SUBSTANTIAL ERROR.

☒ C. SERIOUS ADMINISTRATIVE
OMISSION RESULTING IN
CRITICISM, UNDESIRABLE
PRECEDENT, OR INCONSIST-
ENT TREATMENT.

INITIATOR'S SIGNATURE

SECTION C - RESULTS (Complete only if case is reopened)

<table>
<thead>
<tr>
<th>5. TAX RETURN</th>
<th>A. ADDITIONAL TAX</th>
<th>B. OVER-ASSESSMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>YEAR</td>
<td>AOR U.</td>
<td>YEAR</td>
</tr>
</tbody>
</table>

INSTRUCTIONS

SECTION B - For the narrative, use the following format: (1) Facts (2) Law (3) Conclusion. Form 3993-B may be used for this purpose. See HRM 8.23 for details concerning routing, copy retention and disapproval action.

SECTION C - Indicate whether tax change is agreed or disagreed by entering “A” or “U” in the appropriate column.
FACTS:
A prior examination had been conducted on the 1971 and 1972 returns of this taxpayer. The taxpayer had a contribution carryover from 1969 to these years for the fair market value of his Vice-Presidential Papers which he contributed to the United States Government. The agent accepted this deduction as proper as the facts indicated that the appraiser was eminently qualified, the fair market value appeared to be proper, and that the contribution was made prior to the change in the law. The agent did not verify the circumstances concerning the actual contribution of these papers to the United States Government.

A no change report was issued on June 1, 1973, but we have now received information which leads us to believe that the taxpayer may not have made a completed gift of the papers prior to July 25, 1969, and would, therefore, not be allowed a deduction for this contribution of $570,000.00. The deed used to transfer these documents may not have been forwarded to the National Archives until April 1970. The General Services Administration may not have signed the deed transferring title to the papers transported to the Archives in 1969. The documents which were selected to be donated to the Archives may not have been detailed until early 1970. The deed was signed by a counsel to the taxpayer. The taxpayer did not sign the deed although his name was typed in at the appropriate place in the deed for his signature.

The propriety of this transaction is being questioned by members of the news media, public officials, and the general public. Our failure to reopen this case to determine the propriety of this deduction could result in serious criticism of the Service's administration of the tax laws. Sections 4023.2(c), 4023.5(1)(a), IRM.

LAW:
Section 170(a)(1) of the IRC (1954) states that "There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made in the taxable year." Section 170(c) states, "For purposes of this section, the term 'charitable contribution' means a contribution or gift to or for the use of ... the United States."

Section 1.170-1(b) of the Regulations provides that, "Ordinarily a contribution is made at the time delivery is effected." Section 170 was amended by the Tax Reform Act of 1969. Section 170(e) was added which provides that for any contribution of
LAW: (continued)
ordinary income and capital gain property, the amount of any charitable contribution of property otherwise taken into account under this section will be reduced by the sum of the amount of gain which would have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value... The effective date of this section was made retroactive to July 25, 1969. Briefly stated, the taxpayer would be allowed his basis in the property as a deduction for any personal papers contributed after July 25, 1969. Any contributions of personal papers prior to July 25, 1969, would be allowed at the fair market value of the papers. The pivotal point is, "were these papers given to the United States Government before July 25, 1969?"

In view of the information presently available to us, some doubt now exists on this point. As the prior examination did not cover this aspect of the contribution, and in view of the questions being asked in the news media, permission is hereby requested to reopen these years to determine the validity of this transaction. Failure to do so would result in serious criticism of the Service's administration of the tax laws. Since the prior examination was completed, we have also obtained information concerning other income and expense items which may require examination or reexamination.
December 7, 1973

President Richard M. Nixon
and Mrs. Patricia R. Nixon
The White House
Washington, D. C. 20500

Kind of Tax: Income
Tax Year Ended: December 31, 1971
December 31, 1972

Dear President and Mrs. Nixon:

We are required by law to notify a taxpayer in writing if we need to reexamine his books and records after previously examining them.

Because information that may affect your tax liability has been developed since our latest examination of your books and records, we ask that you make them available to us again, for reexamination.

Thank you for your cooperation.

Sincerely yours,

(Signed) William D. Waters
William D. Waters
District Director
December 7, 1973

President Richard M. Nixon
and Mrs. Patricia R. Nixon
The White House
Washington, D.C. 20500

Type of Tax: Income
Consent Form Number: 372
Taxable Year or Period: December 31, 1970

Dear President and Mrs. Nixon:

While considering your Federal tax return for the year shown above, we found that the limitation period prescribed by law for assessing additional tax will expire soon.

Unfortunately, sufficient time does not remain to permit us to make a thorough and satisfactory audit. You may extend the limitation period by signing all copies of the enclosed form and returning them within ten days from the date of this letter. Upon acceptance of the properly signed forms, we will return one copy to you.

By extending the period of limitation, both you and the Internal Revenue Service will have adequate time to consider any questions or issues which may arise during the examination. In addition, if adjustments are proposed and you do not agree, you will have time to present your views at a conference in the District office and the Regional office.

Thank you for your cooperation.

Sincerely yours,

(Signed) William D. Waters

William D. Waters
District Director

Enclosures:
Copies of consent form
Return envelope
Fraud

During the examination of the gift of the Vice-Presidential Papers, we became aware that a deed was used to convey the gift to the National Archives, and a question was raised as to the actual date of the signing of the deed. The deed was dated March 27, 1969, and was allegedly signed on April 21, 1969, by Deputy Counsel to the President, Mr. Edward Morgan. The signature was also allegedly notarized on April 21, 1969, by Mr. Frank DeMarco. Schedule A attached to the deed could not have been obtained until March 20, 1970, as the information contained on Schedule A could not have been available before March 20, 1970, the date the appraiser, Mr. Ralph Newman, had completed his work and informed Mr. DeMarco of the amount of the gift and the items which were to comprise the gift.

Mr. Ralph Newman, the appraiser, presented an appraisal document which indicated that the appraisal of the 1969 papers was made in April 6-8, 1969, November 1969, and completed in December 1969. However, we were informed by the employees of the Archives that he did not perform any work in April 1969 on these papers. It was also stated that only Part I of Schedule A was selected by him and that Archival employees made the selections of Part II thru V on March 20, 1970. This appraisal was included on the 1969 return and had been presented to the agents who had previously examined the 1971 and 1972 returns to verify the propriety of the deduction.
In view of the conflicting statements, referral reports were submitted on Mr. Morgan, Mr. DeMarco, and Mr. Newman to the Intelligence Division for consideration of a possible violation of Sections 7206 and 7207 of the Code. Copies of the referral reports are included in the Administrative Section of the Workpapers.
### Referral Report for Potential Fraud Cases

**February 4, 1974**

#### Referral Report for Potential Fraud Cases

#### Mr. Frank DeMarco
Los Angeles, Calif.

#### C/O Chief, Audit Div.

#### C/O Chief, Intel. Div.

#### C/O Group Supervisor

---

**NAME AND ADDRESS OF TAXPAYER**

**DATE**

**SS OR E.I. NO.**

**TYPES OF TAX INVOLVED**

- Income

---

**This case has been reviewed by the Intelligence Division, and action indicated taken.**

---

**SIGNATURE, CHIEF INTELLIGENCE DIVISION**

---

**1. REFERRAL REPORT CONCERNS**

- □ UNDERSTATEMENT OF TAXABLE INCOME
- □ FAILURE TO FILE RETURN
- □ OTHER (Specify) Sec. 7206, 7207

---

**2. PERSONAL HISTORY**

- **APPROX. AGE** 48
- **APPARENT HEALTH STATUS**
- **Head of household**
- **EDUCATION (Highest level)**
- **NO. OF EXEMPTIONS (Including taxpayer & spouse)**

---

**3. RECORDS WERE KEPT BY**

- **N/A**

---

**4. TENTATIVE ADDITIONAL TAXABLE INCOME DISCLOSED BY EXAMINATION TO DATE**

<table>
<thead>
<tr>
<th>TAXABLE PERIOD</th>
<th>RETURN FORM</th>
<th>PER RETURN</th>
<th>CORRECTED</th>
<th>ADDITIONAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

4a. Show portion of the tentative additional income which is due to purely technical adjustments (Give details)

- **N/A**

---

**5. Statement, if any, taxpayer has made regarding cash-on-hand, gifts, inheritances and non-taxable sales.**

- **N.A.**

---

**6. Receipts of taxpayer**

- □ ALL DEPOSITED
- □ MOST DEPOSITED
- □ PART DEPOSITED
- □ NONE DEPOSITED

---

**Department of the Treasury - Internal Revenue Service**
None

Name and address of person preparing return:

Frank DeMarco, Los Angeles, Calif.

Were his work papers examined?

☐ YES ☐ NO

9. Have the proposed adjustments been discussed with either the taxpayer or his representative?

☐ YES ☐ NO

10. Schedule No. Attached

11. Has taxpayer or his representative been issued a district conference invitation and furnished with a statement of proposed adjustments or a RAR?

☐ YES ☐ NO

12. Schedule No. Attached

13. Date, by whom, and how taxpayer was first notified return or returns were being examined by the Internal Revenue Service?

14. Information indicating intent to defraud on the part of the taxpayer, and any other information not covered above (if necessary, attach separate sheet):

See attached statement

15. Did taxpayer engage legal counsel after examination began?

☐ YES ☐ NO ☐ NOT KNOWN

SIGNATURE, EXAMINING OFFICER:

Frank B. Lenoir

GROUP TEL. NO. DATE

962 3662 2-4-74

ADDITIONAL COMMENTS OF GROUP SUPERVISOR OR CHIEF, AUDIT DIVISION

SIGNATURE, GROUP SUPERVISOR:

☐ DATE

SIGNATURE, CHIEF AUDIT DIVISION:

DATE

DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE

FORM 2797 (REV. 10-72)
The taxpayer was notified that his returns were being reexamined by a letter from the District Director dated December 7, 1973. This letter was delivered to the White House by the Deputy Commissioner, Mr. Raymond Harless.

The taxpayer is the President of the United States, President Richard M. Nixon. A joint return was filed with Mrs. Patricia Nixon. The years under examination are 1970, 1971, and 1972.

The 1971 and 1972 returns had been previously examined by Revenue Agent Raymond Kuschke and Group Manager G. S. Percuoco of Examination Branch II. A no change report was issued on May 30, 1973 on this examination.

These returns were re-examined as information had been received that a major item of tax consequence, the donation of the taxpayer's Vice-Presidential papers to the U. S. Government, had not been properly handled. The papers were valued at $576,000 and a charitable deduction was claimed on the 1969 return for this amount. The taxpayer used the maximum charitable deduction and carried over the unused deduction to 1970, 1971, and 1972.

The charitable contribution deduction for the papers donated to the U. S. Government was examined by the agents who performed the prior audit. This verification was necessary to determine if the carryover deduction was proper in the years under examination. Mr. DeMarco was present at the prior examination. He provided the agents with an appraisal report by a Mr. Ralph Newman, a recognized expert in his field, to verify the value of the deduction. The agents were also informed that the papers were delivered to the Archives in Washington, D. C. on March 24 to 27, 1969. This date is very significant in that the law was changed by the Tax Reform Act of 1969 to provide that any contribution of this type of property after July 25, 1969 would not qualify as a deduction. The agents therefore apparently accepted the deduction based on the evidence produced by Mr. DeMarco.

Attached is a statement of the facts as obtained from various individuals contacted during our investigation. Conflicts in these statements exist as noted. These conflicts may indicate that the individuals were attempting to provide false and misleading statements to Internal Revenue Agents.

A large amount of supporting documents are available in our Division for your use upon request.
# REFERRAL REPORT FOR POTENTIAL FRAUD CASES

## 1. REFERRAL REPORT CONCERNS

<table>
<thead>
<tr>
<th>Failure to File Return</th>
<th>Other (Specify)</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Understatement of Taxable Income</td>
<td>☐ Form(s.): Sec. 7206, 7207</td>
</tr>
<tr>
<td>☐ Failure to Collect and Pay Over Tax</td>
<td>☐ Failure to Maintain Adequate Records</td>
</tr>
</tbody>
</table>

## 2. PERSONAL HISTORY

<table>
<thead>
<tr>
<th>Approx. Age</th>
<th>Apparent Health Status</th>
<th>Head of Household</th>
<th>Education (Highest Level)</th>
<th>No. of Exemptions (Including Taxpayer &amp; Spouse)</th>
</tr>
</thead>
<tbody>
<tr>
<td>35</td>
<td>☑ Good</td>
<td>Single</td>
<td>College</td>
<td>N/A</td>
</tr>
</tbody>
</table>

## 3. RECORDS WERE KEPT BY

<table>
<thead>
<tr>
<th>Records Kept</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Cash Receipts Journal</td>
<td>☐ Sales Journal</td>
<td>☐ Subsidiary Ledgers</td>
</tr>
<tr>
<td>☐ Cash Disbursements Journal</td>
<td>☐ General Journal</td>
<td>☐ Record of Inventory</td>
</tr>
<tr>
<td>☐ Purchases Journal</td>
<td>☐ General Ledger</td>
<td>☐ Cancelled Checks</td>
</tr>
<tr>
<td>☐ Single Entry</td>
<td>☐ Complete</td>
<td>☐ Agree With Return</td>
</tr>
<tr>
<td>☐ Double Entry</td>
<td>☐ Incomplete</td>
<td>☐ Do Not Agree With Return</td>
</tr>
<tr>
<td>☐ Single Entry</td>
<td>☐ Incomplete</td>
<td>☐ Cash Basis</td>
</tr>
<tr>
<td>☐ Double Entry</td>
<td>☐ Incomplete</td>
<td>☐ Accrued Basis</td>
</tr>
</tbody>
</table>

## 4. TENTATIVE ADDITIONAL TAXABLE INCOME DISCLOSED BY EXAMINATION TO DATE (If excise - Additional taxable sales)

<table>
<thead>
<tr>
<th>Taxable Period</th>
<th>Return Form</th>
<th>Per Return</th>
<th>Corrected</th>
<th>Additional</th>
</tr>
</thead>
</table>

4a. Show portion of the tentative additional income which is due to purely technical adjustments (Give details)

N/A

## 5. Statement, if any, taxpayer has made regarding cash-on-hand, gifts, inheritances and non-taxable sources of income.

N/A

## 6. Receipts of taxpayer

<table>
<thead>
<tr>
<th>☐ All Deposited</th>
<th>☐ Most Deposited</th>
<th>☐ Part Deposited</th>
<th>☐ None Deposited</th>
</tr>
</thead>
</table>

Form 2797 (Rev. 10-72)
apparent reasons for understatement or other noncompliance including explanation, if any, offered by taxpayer.

Name and address of person preparing return.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Were his work papers examined?

- [ ] YES
- [ ] NO

9. Have the proposed adjustments been discussed with either the taxpayer or his representative?

- [ ] YES
- [ ] NO

10. Schedule No. Attached

11. Has taxpayer or his representative been issued a district conference invitation and furnished with a statement of proposed adjustments or a RAR?

- [ ] YES
- [ ] NO

12. Schedule No. Attached

13. Date, by whom, and how taxpayer was first notified return or returns were being examined by the Internal Revenue Service.

14. Information indicating intent to defraud on the part of the taxpayer, and any other information not covered above (If necessary, attach separate sheet):

See attached statement

15. Did taxpayer engage legal counsel after examination began?

- [ ] YES
- [ ] NO
- [ ] NOT KNOWN

SIGNATURE, EXAMINING OFFICE:

ADDITIONAL COMMENTS OF GROUP SUPERVISOR OR CHIEF, AUDIT DIVISION:

SIGNATURE, GROUP SUPERVISOR:

DATE:

NATURE, CHIEF, AUDIT DIVISION:

DATE:

DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE

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These returns were re-examined as information had been received that a major item of tax consequence, the donation of the taxpayer's Vice-Presidential papers to the U. S. Government, had not been properly handled. The papers were valued at $576,000 and a charitable deduction was claimed on the 1969 return for this amount. The taxpayer used the maximum charitable deduction and carried over the unused deduction to 1970, 1971, and 1972.

The charitable contribution deduction for the papers donated to the U. S. Government was examined by the agents who performed the prior audit. This verification was necessary to determine if the carryover deduction was proper in the years under examination. Mr. DeMarco was present at the prior examination. He provided the agents with an appraisal report by a Mr. Ralph Newman, a recognized expert in his field, to verify the value of the deduction. The agents were also informed that the papers were delivered to the Archives in Washington, D. C. on March 24 to 27, 1969. This date is very significant in that the law was changed by the Tax Reform Act of 1969 to provide that any contribution of this type of property after July 25, 1969 would not qualify as a deduction. The agents therefore apparently accepted the deduction based on the evidence produced by Mr. DeMarco.

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REFERRAL REPORT FOR POTENTIAL FRAUD CASES

NAME AND ADDRESS OF TAXPAYER: Mr. Ralph Newman, Chicago, Ill.

TO Chief, Audit Div.

DATE: [ ]

NAME AND ADDRESS OF TAXPAYER: Mr. Ralph Newman, Chicago, Ill.

TO Chief, Audit Div.

DATE: [ ]

TO Group Supervisor

DATE: [ ]

This case has been reviewed by the Intelligence Division, and action indicated taken

SIGNATURE, CHIEF INTELLIGENCE DIVISION: [ ]

[ ] Closed (Copy of closing report attached)

[ ] Rejected (Statement of reasons attached)

[ ] Accepted

Assigned to Special Agent (Name):

[ ] Please Assign Cooperating Officer

1. REFERRAL REPORT CONCERNS.

UNDERSTATEMENT OF TAXABLE INCOME

OESE 7206, 7207

OTHER (Specify)

FAILURE TO COLLECT AND PAY OVER TAX

FAILURE TO MAINTAIN ADEQUATE RECORDS

2. PERSONAL HISTORY

APPROX. AGE: [ ]

GOOD [ ] POOR [ ]

SINGLE [ ] MARRIED [ ]

EDUCATION (Highest level):

NO. OF EXEMPTIONS (Including taxpayer & spouse)

SOURCES OF INCOME OF TAXPAYER AND SPOUSE (List principal occupations):

3. RECORDS WERE KEPT BY

CASH RECEIPTS JOURNAL

TAXPAYER [ ] EMPLOYEE [ ]

SALES JOURNAL [ ] BOOKKEEPING SERVICE [ ]

SUBSIDIARY LEDGERS [ ] OTHER (Specify)

CASH DISBURSEMENTS JOURNAL [ ]

GENERAL JOURNAL [ ]

RECORD OF INVENTORY [ ]

CASH RECEIPTS JOURNAL [ ]

GENERAL LEDGER [ ]

CANCELED CHECKS [ ]

PURCHASE INVOICES [ ]

PURCHASE INVOICES [ ]

 PURCHASE INVOICES [ ]

SALES ORDERS [ ]

SALES INVOICES [ ]

SALES INVOICES [ ]

SALES INVOICES [ ]

SALES INVOICES [ ]

SALES INVOICES [ ]

SALES INVOICES [ ]

SALES INVOICES [ ]

SALES INVOICES [ ]

INACCURATE RECORDS NOTICE SENT

DATE ISSUED: [ ] FORM 7020 [ ] FORM 7021

4. TENTATIVE ADDITIONAL TAXABLE INCOME DISCLOSED BY EXAMINATION TO DATE

(Taxable Additional sales)

TAXABLE PERIOD: [ ]

RETURN FORM: [ ]

PER RETURN: [ ]

CORRECTED: [ ]

ADDITIONAL: [ ]

METHOD USED IN DETERMINATION: [ ]

4a. Show portion of the tentative additional income which is due to purely technical adjustments (Give details)

5. Statement, if any, taxpayer has made regarding cash-on-hand, gifts, inheritances and non-taxable sources of income

DISTRICT DIRECTOR OF INTERNAL REVENUE

RECEIVED

FFR 4 19/4

BALTIMORE OFFICE INTELLIGENCE DIVISION

6. Receipts of taxpayer

[ ] ALL DEPOSITED

[ ] MOST DEPOSITED

[ ] PART DEPOSITED

[ ] NONE DEPOSITED

Form 2797 (Rev. 10-72)

Department of the Treasury - Internal Revenue Service
<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
<th>Not Known</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>8. Name and address of person preparing return.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Have the proposed adjustments been discussed with either the taxpayer or his representative?</td>
<td></td>
<td></td>
<td></td>
<td>Attach schedule showing specific items of omitted income</td>
</tr>
<tr>
<td>10. Schedule No. Attached</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Has taxpayer or his representative been issued a district conference invitation and furnished with a statement of proposed adjustments or a RAR?</td>
<td></td>
<td></td>
<td></td>
<td>Attach schedule showing adjustments to prior year returns, if material</td>
</tr>
<tr>
<td>12. Schedule No. Attached</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13. Date, by whom, and how taxpayer was first notified return or returns were being examined by the Internal Revenue Service</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14. Information indicating intent to defraud on the part of the taxpayer, and any other information not covered above (If necessary, attach separate sheet):</td>
<td></td>
<td></td>
<td></td>
<td>See attached statement</td>
</tr>
<tr>
<td>15. Did taxpayer engage legal counsel after examination began?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**See attached statement**

Date: 2-4-74

**Additional comments of Group Supervisor or Chief, Audit Division**

**Signature, Group Supervisor**

**Signature, Chief, Audit Division**

**Department of the Treasury - Internal Revenue Service**

FORM 2797 (REV. 10-72)
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A large amount of supporting documents are available in our Division for your use upon request.
Consideration of the Assertion of the 50% Civil Fraud Penalty

Based on the present information available there does not appear to be sufficient evidence to recommend the assertion of the 50% civil fraud penalty in this case.

The following individuals, although interviewed, have not submitted to questioning under oath:

Edward L. Morgan
Ralph Newman

John Erlichman has not been interviewed.

All of the above individuals had direct or indirect contact in the preparation of the tax return and could possibly testify under oath or a grant of immunity and possibly connect the taxpayer with the preparation of the tax return and therefore change our recommendation against the 50% civil fraud penalty.

To date our investigation has revealed the following and for these reasons we feel we could not sustain the 50% civil fraud penalty.

A - It is obvious that the taxpayer desired to make a gift of his vice presidential papers because of the financial benefit to him for tax purposes. This was legitimately accomplished by the taxpayer with respect to his 1968 Income Tax.

B - The taxpayer hired Ralph Newman to appraise his papers and paid him $25,000. Ralph Newman testified relative to his appraisal of the papers. Although there is some conflict with his testimony and others as to the dates he performed this service we feel this conflict is immaterial since the date of appraisal is irrelevant.

C - Vice presidential papers were delivered to the archives in March 1969.

D - Edward L. Morgan testified that in April 1969 he signed a deed in California in the presence of Mr. DeMarco. This is corroborated by his former secretary.

E - Mr. DeMarco was interviewed and corroborated Morgan's testimony.

F - Mr. DeMarco and Mr. Kalmbach testified that his contact with the White House for financial information was with either Mr. Erlichman or Mr. Morgan.
G - Mr. DeMarco has testified that he spent approximately 15 minutes with the taxpayer reviewing the finished return before getting the taxpayer or his wife to sign.

H - Mr. DeMarco's secretary testified that she remembered typing two deeds, one in March or April 1969, and one in April 1970.

I - There is no information available linking the taxpayer with the actual preparation of his return.

See attachment

In summary, it is our opinion that to sustain the assertion of the 50% civil fraud penalty on this return it would be absolutely necessary to have affirmative testimony by some or all of the individuals mentioned above. To date not one of the witnesses has testified in this matter.
INTERNAL REVENUE CODE OF 1954

Policy Statement P-9-5 (Approved 11-19-65). This policy statement is supplemented by Manual Supplement 45G-106 which states in essence the following:

That civil fraud penalties will be recommended for each taxable period where clear and convincing evidence is available to prove that some part of the underpayment of taxes is due to fraud. Such evidence must show intent to evade the payment of tax which the taxpayer believes to be owing as distinguished from a mistake, inadvertance, reliance on incorrect technical advice, honest difference of opinion, negligence or carelessness.

Among the factors to be considered in recommending imposition of the civil fraud penalties are: (a) whether the circumstances are of a flagrant nature and (b) whether the tax due, after pre-payment credits and without adjustment for allowable carry-back or carry-over losses or tax credits from a different year is diminutive.

Fraud Defined - Mere negligence, or ignorance of law, does not constitute fraud. It is necessary to show that there was fraudulent intent to evade tax (.339, .3461, .472). Ordinarily, a taxpayer will not be held liable for fraud penalties if he acts upon advice of counsel, but he must show that he conveyed complete and accurate information to his attorney. (.38)

.209 Accountants Employed - Taxpayers who turned over all books and records to a Certified Public Accountant who prepared their returns were not liable for fraud penalties.

R. H. Hall, (DC) 57-1 USTC 9329.

.21 Advice of attorney. The Fraud penalty was not sustained where taxpayer relied on advice of attorney that liquidation dividend was not taxable income.

Jurkiewicz, 14 TCM 1243 TC Memo 1955-318
Similarly, even though taxpayer was a lawyer, his failure to report the gain from a sale was due to ignorance of the law and not to fraud with intent to evade taxes.

Hoover, 4 TCM 593, Dec. 14, 606

Mere suspicion of fraud - The court will not sanction an assessment of a fraud penalty on mere suspicion or because the memories of witnesses falter or conflict.

A. Levy, 28 TCM 371 Dec. 29, 519 TC Memo 1969-65
INTERNAL REVENUE CODE OF 1954

CHAPTER 63

ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS AND ASSESSABLE PENALTIES.

Sub-Chapter A

Section 6653 (b) Fraud — If any part of any underpayment (as defined in sub-section (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.

The fraud penalty is a remedial civil sanction to safeguard and protect the Revenue and to reimburse the Government for the heavy expense of investigation and loss involved from the taxpayer's fraud.\(^1\)

The degree of proof required in civil cases is a preponderance of evidence, except where fraud is involved. Clear and convincing evidence is necessary in order to prevail on the fraud issue. Clear and convincing evidence need not be beyond a reasonable doubt, but must be stronger than mere preponderance of evidence.\(^2\)

Policy Statement P-9-5 (Approved 11-19-65). This policy statement is supplemented by Manual Supplement 45G-108 which states in essence the following:

That civil fraud penalties will be recommended for each taxable period where clear and convincing evidence is available to prove that some part of the underpayment of taxes is due to fraud. Such evidence must show intent to evade the payment of tax which the taxpayer believes to be owing as distinguished from a mistake, inadvertance, reliance on incorrect technical advice, honest difference of opinion, negligence or carelessness.

Among the factors to be considered in recommending imposition of the civil fraud penalties are: (a) whether the circumstances are of a flagrant nature and (b) whether the tax due, after pre-payment credits and without adjustment for allowable carry-back or carry-over losses or tax credits from a different year is diminutive.

\(^1\)Helvering v. Mitchell USSTC 9152

Kahr v. C.I.R., 1969, 414 F. 2nd 621

\(^2\)Gladden v. Self 55-1 USSTC 9227
Fraud implies bad faith, intentional wrong-doing and a sinister motive and is never imputed or presumed and a court should not sustain findings of fraud on circumstances which at most creates only suspicion. 3

**Incorrect Returns** - Responsibility of filing a correct income tax return is on the taxpayer, but a failure to file a correct return does not necessarily constitute fraud. 3

**Good Faith** - Where taxpayer, acting under improper advice, believed he was adopting legitimate devise to avoid taxes, fraud penalty was unauthorized. 2 B.T.A. 637.

**Negligence** - Although taxpayer was negligent in failing to maintain proper records and in failing to see that the income tax return was accurate, evidence did not establish fraud with an attempt to evade taxes. 32 B.T.A. 313.

**Gifts** - Although evidence established that gifts of securities by taxpayer were invalid, it did not establish that the gifts were shams designed to evade tax and fraud penalties were not sustained. 4

3 Davis, V. C.I.R. 1950, 184 F. 2nd 86
4 Joseph V. C.I.R. 1935, 32 B.T.A. 1192
Fraud Defined - Mere negligence, or ignorance of law, does not constitute fraud. It is necessary to show that there was fraudulent intent to evade tax (339, 341, 472). A corporation is responsible for the fraudulent acts of its officers committed in its behalf and an individual taxpayer cannot escape the penalties of fraud by delegating the preparation of his returns to another. Ordinarily, a taxpayer will not be held liable for fraud penalties if he acts upon advice of counsel, but he must show that he conveyed complete and accurate information to his attorney. (33)

.209 Accountants Employed - Taxpayers who turned over all books and records to a Certified Public Accountant who prepared their returns were not liable for fraud penalties.

R. H. Hall, (DC) 57-1 USTC 9329.

.21 Advice of attorney. The Fraud penalty was not sustained where taxpayer relied on advice of attorney that liquidation dividend was not taxable income.

Jurkiewicz, 14 TCM 1213 TC Memo 1955-318

.217 Similarly, even though taxpayer was a lawyer, his failure to report the gain from a sale was due to ignorance of the law and not to fraud with intent to evade taxes.

Hoover, 4 TCM 593, Dec. 14, 606

.38 Information not given taxpayer's Counsel - The fraud penalty was approved, where taxpayer did not turn over complete information to his counsel who prepared his return.

Green, 11 B.T.A. 273, Dec. 3756
.42 Mere suspicion of fraud - The court will not sanction an assessment of a fraud penalty on mere suspicion or because the memories of witnesses falter or conflict.

A. Levy, 28 TCM 371 Dec. 29, 519 TC Memo 1969-65

.565 Lax bookkeeping methods - Negligent penalties are sustained because of the negligent manner in which the accounts were kept.

Where the taxpayer failed to keep proper records and made no serious effort to assemble and organize facts and data essential to the making of a proper return, the negligence penalty was sustained.

A. Scaglione, 31 TCM 312, Dec. 31,323 (M), TC Memo. 1972-73.
R. Haman, 31 TCM 466, Dec. 31,400 (M), TC Memo. 1972-130.

Similarly, where the method of keeping taxpayer's books, a complete failure of any apparent efforts to maintain accurate records or file correct returns, and the insubstantial nature of the explanations made it impossible to avoid the conclusion that the taxpayer's conduct was negligent.

Tri-Borough Trans. Corp. 5 TCM 105, Dec. 15,014.
March 28, 1974

District Director of Internal Revenue
Attention: Chief, Intelligence Division
Baltimore, Maryland

William H. Jackson, Group Manager "II"
Baltimore District Office

FRANK DE MARCO
Los Angeles, California 927-2947

RALPH HERMAN
Chicago, Illinois 927-2873

EDWARD MORGAN
Phoenix, Arizona 927-29827

This report relates to a request to utilize the procedures for interrogating uncooperative or reluctant witnesses through the use of the investigative powers of the Grand Jury in connection with the participation in and activities of the subject taxpayers with respect to the preparation of the 1969 income tax return of President Richard M. Nixon.

This matter has been fully discussed with Ronald Alexander, Commissioner of the Internal Revenue Service; Head Whittaker, Chief Counsel; Leon Migriner, Director-Enforcement, Criminal; Robert Likan, Regional Counsel, I.R.S.; and David Golden, Assistant Regional Counsel, Criminal, I.R.S.; and they all concur with the proposed action.

Exhibit 1 is a copy of the body of a Referral Report For Potential Fraud Cases, submitted by the Audit Division, Baltimore District, to the Intelligence Division, Baltimore District, on February 4, 1974 covering the subject taxpayers.

Exhibits 2 through 13 are copies of related documents cited in the Referral Report which cover the activities of the referring Revenue Agents, together with related documents obtained by them during their current examination of President Nixon's 1970, 1971, and 1972 income tax returns.

The subject taxpayers were placed under full scale investigation by the Intelligence Division, Baltimore District, on February 23, 1974.

The point at issue is whether or not the President made a completed gift of certain pre-presidentialproperty to the United States between January 1, 1969 and July 25, 1969, so that he could avail himself of a charitable deduction on his 1969 income tax return under Section 170 of the Internal Revenue Code.
District Director of Internal Revenue
Attention: Chief, Intelligence Division
Baltimore, Maryland

Frank DeLarco, an attorney and partner in the law firm of Kalmbach, DeLarco, Knap, and Chillingworth (Los Angeles, California) signed the President's 1969 income tax return as the return preparer.

Ralph Newman, an appraiser with offices located in Chicago, Illinois, appraised the papers in question and placed a value of $576,000 on the papers. Documents covering Newman's appraisal were attached to the President's 1969 income tax return. Edward Morgan, who during this time period was employed as Deputy Counsel to the President, signed for the President the Chattel Deed (Exhibit 14) covering the gifted papers to the United States.

Frank DeLarco was interviewed (Exhibit 15) by the referring Revenue Agents and staff members of the Joint Committee on Internal Revenue Taxation on January 18, 1974. DeLarco, who was not under oath, volunteered the following information at that meeting:

He and Herbert Kalmbach met with Edward Morgan on April 21, 1969 in Los Angeles after hearing from Morgan on either April 14 or 15, 1969 that Morgan was coming to California to cover the San Clemente property, the Foundation of the President, and the gift (of the President's papers).

He stated that at the meeting with Morgan on April 21, 1969, that he (DeLarco) had a draft of the Chattel Deed; that the draft had strike overs, and that he did not remember Morgan signing it. DeLarco further stated that on or about April 4, 1969 he spoke with Ralph Newman, and that sometime between April 6 and April 15, 1969 Newman called him and stated that he had segregated "the sensitive stuff".

He stated that during October and November 1969, he "hassled" Newman for the appraisal and he (Newman) promised to have it, and that no deadline was set. DeLarco stated that in November 1969, Morgan called him and noted a change in the tax law and mentioned July 25, 1969 as the cutoff date.

Subsequent to the January 16, 1974 interview, DeLarco submitted a memorandum (Exhibit 16) to Dr. Lawrence Woodworth, Joint Committee on Internal Revenue Taxation, in which he advised that:

Ralph Newman contacted him (DeLarco), probably during the first few days of April 1969, and during the conversation DeLarco advised Newman that the maximum charitable contribution (covered by the gift of papers) that could be absorbed by the President would be approximately $500,000, and that the $500,000 figure came up in his first conversation with Mr. Morgan. Mr. DeLarco submits that sometime during the day of his meeting with Morgan on April 21, 1969, it is his recollection that Newman signed the form of the chattel deed. DeLarco advised that sometime in May 1969, he had a telephone
District Director of Internal Revenue  
Attention: Chief, Intelligence Division  
Baltimore, Maryland

correspondence with Newman. Delarco further submitted that at the 
end of October 1959, he began pressuring Newman a little to have 
the job done.

Delarco stated that he contacted Morgan in early 1970 on several 
occasions to use his influence over Newman, to see that an itemized 
appraisal be finished in plenty of time to prepare the tax return. 
On April 7, 1970 he dictated to his secretary the summary schedule 
(coversing the gifted papers) for attachment to the President's 1959 
return. He states that it was at this time, upon examining the 
summary schedule and examining the Schedule A which he had instructed 
his secretary to prepare on March 27, 1970, that he noticed that the 
typing on these documents and the color and texture of the paper 
were so substantially different from the type and paper used on the 
draft deed prepared in April of 1959, that he instructed his secretary 
to restripe the entire chattel deed on the new typewriter which he had 
been using since mid-1959. It was his (Delarco's) plan to have the 
new ribbon copy re-executed by Morgan when he saw him in Washington. 
On April 10, 1970 he met with Morgan in the Executive Office Building 
and presented to Morgan the original ribbon copy and two xerox copies 
of the restriped chattel deed for his re-execution. After completion 
of the execution by him (Morgan), Delarco thought he left Morgan 
one copy and retained the ribbon copy for his (Delarco's) file.

Delarco did not recall that he had any substantial discussion at 
the time of the re-execution, except that they concurred in the 
proposition that it was a restatement of that which they had done 
in California in April of 1959.

On February 22, 1974 I interviewed Dr. Delarco under oath (Exhibit 17) 
in the offices of the Intelligence Division, Los Angeles, California. 
Dr. Delarco restated, in substance, that he had submitted to his mem-
berman to Dr. Woodworth (Exhibit 16). He insisted that Morgan signed 
the deed on April 21, 1959 and, again, on April 10, 1970; that Morgan 
was his contact at the White House in assisting in the preparation of 
the President's 1959 return; that he had conversations with Newman in 
the spring of 1959 and that he had pressed Newman to finish the 
appraisal of the papers of the President.

On January 14, 1974 Edward Morgan was interviewed (Exhibit 18) by the 
referring agents and members of the Joint Committee on Internal 
Revenue Taxation in Washington, D.C. Dr. Morgan was not under oath 
during this interview. Dr. Morgan stated that he was sure that he 
had signed the chattel deed while in California on April 21, 1959 
at his meeting with Delarco and Kailbach. He then stated he was un-

[12423]
District Director of Internal Revenue  
Attention: Chief, Intelligence Division  
Baltimore, Maryland

certain that he had signed the deed but could not remember how many copies. He could not recall why he was chosen to sign the deed. He stated he assumed that, as Deputy Counsel for the President, he had the authority to sign the deed. He stated that there was some question in his mind as to whether he signed anything in late 1969 or the spring of 1970. He stated that he did not remember but could have signed the deed again. He again stated that he was sure that he had signed the deed in 1969 but had no recollection of a later deed being signed.

Exhibit 19 is a copy of a memorandum from Edward L. Morgan to Mr. Douglas Parker, with the subject being "President's Papers." In the memorandum, Mr. Morgan states that in April 1969 he made a trip to California regarding several matters. He stated that apparently Mr. Delarco indicates that he called him and said the President wanted to make a gift of about $500,000. Mr. Morgan states that he had no reason to doubt this, although he could not have a specific recollection of that call. He stated that on Monday, April 21, 1969, he met with Kelmach and Delarco and they drove to San Clemente. He stated that he recalled spending sometime at Kelmach's law office discussing their work on all the matters on which he was in California. He stated that there was absolutely no question in his mind that he signed the deed of gift for the President at that time. He stated that the thing he can't remember was whether or not there was any particular schedule attached to the deed at that time, and if so, its contents. Mr. Morgan makes no mention of the possibility of his signing the chattel deed in question a second time.

On March 19, 1974, I interviewed Mr. Morgan in Phoenix, Arizona (Exhibit 20). Mr. Morgan, through his counsel (Mr. Richard Van Dusen), would not submit to a question and answer statement under oath or submit an affidavit. Mr. Morgan advised that he was never under the impression that it was his responsibility or assignment to take care of the 1969 tax work of President Nixon. As far as he was concerned, the only thing he was ever assigned to do covering the President's 1969 income tax situation concerned the gift of the papers of the President. He stated that on his meeting with Delarco and Kelmach on April 21, 1969, he expected a chattel deed to be there, in Mr. Delarco's office, when he got there, and that it was his intention to sign the deed. He now recalls with 100% certainty that he did sign a chattel deed covering the President's papers and an affidavit giving him the authority to do such. Mr. Morgan stated he could not recall who had given him this authority and, quite possibly, he assumed the authority. He did not recall having had any conversations.
with Dallarco prior to the April 21st meeting. He stated that he brought no receipts of any kind to furnish Dr. Dallarco covering the aforementioned gift of papas. Then asked if a figure of $600,000 covering the gift for 1939 had been brought to his attention by any individual during 1939, Mr. Morgan stated that he could not specifically recall that such a figure had been brought up to him. However, it was his opinion that if it had been brought up during that period, he felt that John H. Neuman would have given him that figure. Mr. Morgan stated that he did not retain Ralph Neuman to do the appraiser work on the President's papers for 1939 and has no idea who, in fact, retained Mr. Neuman. Morgan could not recall talking to Neuman or meeting with Neuman during 1939 but stated it would not surprise him if he had. If he had had conversations with Neuman, Morgan could not recall that the conversations had to do with.

Morgan stated that after his visit with Dallarco on April 21, 1969, he could not remember any specific conversation with Dallarco throughout that year. He stated that, to his memory, he had nothing whatsoever to do with the President's tax return after the April 21, 1969 visit with Dallarco. Mr. Morgan advised that on approximately July 4, 1969 his assignments in the White House were changed, wherein he became a "domestic advisor" to the President, and was quite certain after that period of time, he had little or no time to be assigned the responsibility for the President's tax return for that year. Then asked if he recalled signing a second chattel deed covering the President's papers for 1939, Morgan stated he does recall having signed them a second time but cannot recall specifically signing them on Mr. Dallarco's visit to the White House on April 10, 1969. Morgan stated further that he had no knowledge that there was or could be a July 25, 1969 cutoff date for gifts of papers as a charitable contribution.

On January 17, 1974 Ralph Neuman was interviewed by the referring agents and members of the Joint Committee on Internal Revenue Taxation (Exhibit 21). Neuman stated that Frank Dallarco called him during the first few days of April 1969. He stated that he knew before from someone, either Dallarco or Morgan, had mentioned a gift of $600,000. He stated he was sure he was told that they were contemplating a $600,000 gift. He stated that on April 8, 1969 he saw Sherrod East at the Archives and saw the mass of material (the 1939 gift) other than the 1933 papers. On November 3, 1969 Neuman stated he made an estimate of the total value of the 1939 gift and then made a detailed examination of that necessary to make the deed of gift. He stated, as far as he was concerned, everything was carried by
December 8, 1969 in his mind but he did not notify anybody. When asked when he made a list, which is the basis for Schedule A which covers the 1969 gift, Morgan stated again that he had selected them in 1939. He stated that he did not give D'Arcy the $576,000 figure prior to March 27, 1970.

On January 7, 1974 Mr. Newman submitted a letter (Exhibit 22) to Albert Calcagno, Internal Revenue Agent, and stated, in part, that he had been informed that the President would want to make a gift of around $500,000, and that this gift was to be selected from the materials that had been delivered to the National Archives, if there was sufficient materials to justify an appraisal for that amount. He further stated that on April 8, 1969 he merely visited the area where the large collection of unsorted or unorganized materials had recently been placed (the 1969 papers). He states further, it was obvious from the sheer volume that there would be more than enough to cover the 1969 gift requirement for $500,000. He stated further that he did not segregate or direct the segregation of the materials at this time. He stated that he made this information known to Mr. D'Arcy, returned to Chicago, and on April 10, 1969 completed the 1968 appraisal document.

On March 4, 1974 I interviewed Ralph Newman in the offices of the Intelligence Division in Washington, D.C. (Exhibit 23) Mr. Newman, through advice of counsel, would not agree to a question and answer statement under oath or to giving an affidavit. Mr. Newman identified a copy of the appraisal he had prepared covering his appraisal of the President's 1959 papers (Exhibit 24). Mr. Newman then stated that the 1959 appraisal was an incorrect statement and not a false statement. He stated that he did not review the 1959 papers on April 8, 1969 as they were still in their original cartons, being unpacked by the Archival personnel, and were located in a different part of the building. He stated, in fact, that the 1959 appraisal of the President's papers, which he submitted and were subsequently attached to the President's 1968 return, were incorrect in that he listed only one date as doing appraisal work, which was a December 1968 date, when, in fact, he had appraised the 1959 papers in December of 1969 and again on April 8, 1969. Newman stated that during the period, April 1959 to September 1969, he was in Japan and subsequently in Australia, and called Mr. Ritzell of the law firm of Judge-Rose, located in New York. He states that as of that date, he was under the impression that Mr. Ritzell's firm was handling the President's papers. Newman stated that on October 31, 1969 he received a phone call from Frank Pomme, who identified himself as the President's attorney. Newman stated that this was the first time he ever again to Pomme and would testify to that fact. Newman stated that he, in that telephone conversation,
was advised by DeLarco that he was being retained by DeLarco to
appraise the 1959 papers. He stated that he had little or no
contact with DeLarco concerning the President's papers. During
November and the early part of December 1969, he went to the
National Archives and evaluated the 1959 papers. On December 8, 1969
Herman stopped his appraisal of the papers, at which time he had
set a value of approximately $33,000. Since there was a lack of
communication from DeLarco, Herman stated he simply stopped the
appraisal. He stated that on December 24, 1969 he telephoned
DeLarco and advised him that the year was coming to a close,
and in light of the new legislation, he asked exactly what DeLarco
wanted him to do. Herman stated that DeLarco replied to him in
the same manner as always—"I will check on it" or "I will get
back to you." Herman stated that he asked DeLarco as of what date
did he (DeLarco) intend to give the gift. Herman stated that he
received no answer to that question.

On March 27, 1970 Herman stated that DeLarco called him and advised
him that the 1959 papers were delivered on or about March 27, 1969
to the National Archives. Herman stated that DeLarco advised him
to prepare the necessary appraisal documents and define the gift.
Herman further stated that this was the first time a definite discus-
sion of a 1959 gift and what papers would encompass the gift, was
brought up. Herman stated that he advised DeLarco at that time that
he would have to return to the Archives to get more material for the
1959 gift value of $33,000. Herman stated that, per DeLarco's re-
quest, he hurriedly selected additional documents, with the assistance
of Mary Livingston of the National Archives, and on April 6, 1970
signed an affidavit and an appraisal for the 1959 papers. This
affidavit and appraisal was prepared by his secretary. Since there
was a time element involved, Herman stated that his secretary mistakenly
entered the dates of April 6th to the 8th, 1969 and he, unknowingly,
signed the appraisal. Herman stated he knew he performed work on
the Nixon papers on that day (April 6th to April 8th, 1969) but failed
to recognize that the work performed on those dates were on the 1959
papers. Herman stated that he submitted the appraisal document to
DeLarco but that he never discussed the July 1959 cutoff date concerning
gifts with anyone but DeLarco. Herman stated that he could not recall
any discussion with Morgan or anyone else concerning the value ($33,000)
of the gift prior to October 31, 1969. Herman stated that, if asked,
he would testify that he never discussed a $33,000 value with anyone
prior to the fall of 1969 or, more practically, the spring of 1970.
District Director of Internal Revenue
Attention: Chief, Intelligence Division
Baltimore, Maryland

On March 7, 1974 Herbert Kalmbach was interviewed in Washington, D.C. (Exhibit 23). Kalmbach stated that he had nothing whatsoever to do with the preparation of the President's 1969 income tax return or with the gift of the President's papers. He stated that this was the responsibility of his partner, Frank DeMarco, and that he had no knowledge of anything concerning these issues.

Exhibit 26 are copies of Herbert Kalmbach's diary covering his activities concerning the preparation of the President's 1969 income tax return. The diary's notations indicate that he was in contact with John Ehrlichman concerning this matter and also with Edward Morgan and Roger Barth, an Internal Revenue Service employee. Kalmbach has not been interviewed again and confronted to explain the notations set forth in his diary entries. Attempts have been made to interview John Ehrlichman, but as of the date of this memorandum, he has not made himself available for interview.

As set forth in this memorandum, inconsistencies abound between the early testimony and subsequent testimony of Messrs. DeMarco, Newman and Morgan. There are indications now that Mr. Kalmbach and Mr. Ehrlichman, quite possibly, were involved in the gift issue of the President, together with the preparation of the President's income tax return for the year 1969. Because of these inconsistencies and the reluctance of the various individuals to go under oath or, in fact, be interviewed, it is believed that the true story concerning the gift of the President's papers and the preparation of his 1969 income tax return can only be arrived at by the use of a Grand Jury proceeding.

It is recommended that a Grand Jury investigation of Frank DeMarco, Ralph Newman, Edward Morgan, John Ehrlichman and Herbert Kalmbach be instituted with a view towards determining violations by them or any one of them for violation of Section 7206(2) with respect to the 1969 income tax return of President Richard M. Nixon.

William N. Jackson
Group Manager "01"

APPROVED FOR FORWARDING TO
THE OFFICE OF REGIONAL COUNSEL, MAR

Robert L. Browne
Chief, Intelligence Division
Baltimore District Office
Honorable Leon Jaworski  
Special Prosecutor  
Office of Watergate Special Prosecution Force  
1425 K Street, N. W.  
Washington, D. C. 20005  

Dear Mr. Jaworski:  

This is to confirm the discussion at our meeting on March 29, 1974. As the Chief Counsel and I indicated at that time, the Internal Revenue Service has conducted an investigation into the possible violation of Section 7206(2) of the Internal Revenue Code rising out of the preparation of the 1969 income tax return of President Richard M. Nixon. In particular, the investigation has focused on the activities of Frank DeMarco, Ralph Newman, Edward Morgan, John Ehrlichman and Herbert Kalmbach with respect to the charitable deductions for the gift of pre-presidential papers to the National Archives. We have been unable to complete the processing of this matter in view of the lack of cooperation of some of the witnesses and because of many inconsistencies in the testimony of individuals presented to the Service. The use of grand jury process should aid in determining all of the facts in this matter. It is our opinion that a grand jury investigation of this matter is warranted, and because this investigation will involve presidential appointees, we believe it would be appropriate for it to be carried forward by your office.  

I understand that on April 1, Mr. David D. Gaston of the Mid-Atlantic Regional Office delivered to you the special agent's report and related exhibits compiled during this investigation. If on the basis of these materials you determine to proceed with a grand jury investigation, the Internal Revenue Service will provide all possible cooperation.  

Please return the files to this office after they have served their purpose.  

I would appreciate it if you would advise me of your conclusions in this matter.  

Sincerely,  

Donald C. Alexander
Honorable Leon Jaworski  
Special Prosecutor  
Office of Watergate Special  
Prosecution Force  
1425 K Street, N. W.  
Washington, D. C. 20005  

Dear Mr. Jaworski:  

This is to confirm the discussion at our meeting on March 29, 1974. As the Chief Counsel and I indicated at that time, the Internal Revenue Service has conducted an investigation into the possible violation of Section 7206(2) of the Internal Revenue Code rising out of the preparation of the 1969 income tax return of President Richard M. Nixon. In particular, the investigation has focused on the activities of Frank DeMarco, Ralph Newman, Edward Morgan, John Ehrlichman and Herbert Halbach with respect to the charitable deductions for the gift of pre-presidential papers to the National Archives. We have been unable to complete the processing of this matter in view of the lack of cooperation of some of the witnesses and because of many inconsistencies in the testimony of individuals presented to the Service. The use of grand jury process should aid in determining all of the facts in this matter. It is our opinion that a grand jury investigation of this matter is warranted, and because this investigation will involve presidential appointees, we believe it would be appropriate for it to be carried forward by your office.  

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Please return the files to this office after they have served their purpose.  

I would appreciate it if you would advise me of your conclusions in this matter.  

Sincerely,  

[Signature]  

Donald C. Alexander
Dear President and Mrs. Nixon:

The examination of your income tax returns for the years 1969, 1970, 1971 and 1972 has been completed and we have enclosed a copy of our examination report explaining why we believe an adjustment of your tax liability is necessary.

If you accept our proposed adjustments, please sign and return the enclosed agreement form which has been prepared for the years 1970, 1971 and 1972.

If you do not agree, you may request a hearing before the Appellate Division of the Regional Commissioner's office. If you prefer, you may request a conference with a member of our conference staff to discuss the proposed adjustments.

To arrange a hearing or a conference you should submit a written protest in accordance with the enclosed instructions, and your request should be made within thirty (30) days from the date of this letter.
President Richard M. Nixon
and Mrs. Patricia R. Nixon

If we do not hear from you within 30 days, we will have no alternative but to process your case on the basis of the adjustments shown in the examination report.

With respect to your 1969 Federal Income Tax Return, the statutory period during which we can legally assess and enforce collection has expired. The enclosed report of examination of this year reflects our determination of what would have been due had the statute not expired. The report for the year 1969 is furnished for information purposes only. There is no legal obligation on your part to pay the deficiency shown.

Thank you for your cooperation.

Sincerely yours,

/s/ Gerald G. Portney
District Director

Enclosures:
Examination Report
Agreement or Waiver Form
Instructions

retyped from indistinct original
April 2, 1974

President Richard M. Nixon
and Mrs. Patricia R. Nixon
The White House
Washington, D. C. 20500

Telephone: 952-3084

Kind of Tax: Income
Tax Year Ended: December 31, 1969
December 31, 1970
December 31, 1971
December 31, 1972

Dear President and Mrs. Nixon:

The examination of your income tax returns for the years 1959, 1970, 1971 and 1972 has been completed and we have enclosed a copy of our examination report explaining why we believe an adjustment of your tax liability is necessary.

If you accept our proposed adjustments, please sign and return the enclosed agreement form which has been prepared for the years 1970, 1971 and 1972.

If you do not agree, you may request a hearing before the Appellate Division of the Regional Commissioner's office. If you prefer, you may request a conference with a member of our conference staff to discuss the proposed adjustments.

To arrange a hearing or a conference you should submit a written protest in accordance with the enclosed instructions, and your request should be made within thirty (30) days from the date of this letter.
President Richard M. Nixon
and Mrs. Patricia R. Nixon

If we do not hear from you within 30 days, we will
have no alternative but to process your case on the basis
of the adjustments shown in the examination report.

With respect to your 1969 Federal Income Tax Return,
the statutory period during which we can legally assess and
enforce collection has expired. The enclosed report of
examination of this year reflects our determination of what
would have been due had the statute not expired. The report
for the year 1969 is furnished for information purposes only.
There is no legal obligation on your part to pay the defi-
ciency shown.

Thank you for your cooperation.

Sincerely yours,

/s/ Gerald G. Portney

District Director

Enclosures:
Examination Report
Agreement or Waiver Form
Instructions
Pursuant to section 6213(d) of the Internal Revenue Code of 1954, or corresponding provisions of prior internal revenue laws, the undersigned waives the restrictions provided in section 6213(a) of the Internal Revenue Code of 1954, or corresponding provisions of prior internal revenue laws, and consents to the assessment and collection of the following deficiencies with interest as provided by law. The undersigned also accepts the following overassessments as correct:

<table>
<thead>
<tr>
<th>YEAR ENDED</th>
<th>KIND OF TAX</th>
<th>AMOUNT OF TAX</th>
<th>PENALTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/31/70</td>
<td>Income</td>
<td>$90,114.46</td>
<td>$4,505.72</td>
</tr>
<tr>
<td>12/31/71</td>
<td>Income</td>
<td>92,829.30</td>
<td>$4,611.47</td>
</tr>
<tr>
<td>12/31/72</td>
<td>Income</td>
<td>88,204.96</td>
<td>$4,410.25</td>
</tr>
</tbody>
</table>

The undersigned waives the restrictions provided in section 6213(a) of the Internal Revenue Code of 1954, or corresponding provisions of prior internal revenue laws, and consents to the assessment and collection of the following deficiencies with interest as provided by law.

**DATE RECEIVED BY INTERNAL REVENUE SERVICE**

**APR 26 1974**

**DISTRICT DIRECTOR OF INTERNAL REVENUE**

**BALTIMORE**

**NAME AND ADDRESS OF TAXPAYER(S) (Number, street, city or town, State, ZIP Code)**

Richard M. and Patricia R. Nixon
The White House
Washington, D.C. 20500

**NOTE:** The execution and filing of this waiver will expedite adjustment of your tax liability. It is not, however, a final closing agreement under section 7121 of the Internal Revenue Code and does not preclude assertion of a further deficiency in the manner provided by law if it is later determined that additional tax is due, nor does it extend the statutory period of limitation for refund, assessment, or collection of the tax.

Furthermore, execution and filing of this waiver will not preclude the taxpayer's filing under section 6511 of the Code a timely claim for refund or credit, on which (if disallowed by the Service) suit may be brought in the appropriate District Court.

If the taxpayer is a corporation, this waiver must be signed with the corporate name followed by the signature and title of the officer(s) duly authorized to sign.

This waiver may be signed by the taxpayer's attorney or agent provided his action is specifically authorized by a power of attorney which, if not previously filed, must accompany the form.

If this waiver is signed by a person acting in a fiduciary capacity (such as executor, administrator, trustee, etc.), Form 56, "Notice of Fiduciary Relationship," should, unless pre-
### Income Tax Audit Changes, '69-'72

**Department of the Treasury - Internal Revenue Service**

**INCOME TAX AUDIT CHANGES**

<table>
<thead>
<tr>
<th>S.S. No.</th>
<th>Number</th>
<th>Filing Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>567-63-0515</td>
<td>Married</td>
<td>Filing Joint Return</td>
</tr>
</tbody>
</table>

#### Name and title
- Kenneth Gemmill, P/A
- H. Chapman Rose, P/A
- Peter Work, P/A

**Income Tax Audit Changes - 1969-1972**

**Address of Taxpayers**

- Richard M. & Patricia R. Nixon
- The White House
- Washington, D.C. 20500

**1. Adjustments to Income**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Contributions other than Cash – Papers</td>
<td>$95,293.45</td>
</tr>
<tr>
<td>b. GSA Expenditures to San Clemente</td>
<td>$29,344.64</td>
</tr>
<tr>
<td>c. GSA Expenditures to Key Biscayne</td>
<td>$2,499.94</td>
</tr>
<tr>
<td>d. Depreciation Decreased - Key Biscayne</td>
<td>$69.52</td>
</tr>
<tr>
<td>e. Depreciation &amp; Business Expenses - San Clemente</td>
<td>$4,699.62</td>
</tr>
<tr>
<td>f. Income Increased - Use of Government Airplanes</td>
<td>$4,001.45</td>
</tr>
</tbody>
</table>

**2. Total Adjustments from Page 2**

- $92,527.98

**3. Income taxable shown on return**

- $11,782,642

**4. Corrected adjusted gross taxable income**

- $234,367.61

**5. Tax**

- $20,069.37

**6. Alternative tax if applicable (from Page 3)**

- $200,693.69

**7. Tax surcharge**

- 10%

**8. Corrected tax liability (lesser of line 5 or 6, plus line 7)**

- $220,763.06

**9. Less credits (specify)**

- 

**10. Balance (Line 8 less amounts on line 9a through 9c)**

- $220,763.06

**11. Plus**

- a. Tax from recomputing prior year investment credit

**12. Total corrected income tax liability (Line 10 plus amounts on line 11a through 11e)**

- $220,763.06

**13. Total tax shown on return or as previously assessed**

- $72,682.09

**14. Statutory deficiency**

- $148,080.97

**15. Penalties**

**Information**

This report of examination for 1969 reflects our determination of what would have been due had the statute not expired. The report is furnished for information purposes only. There is no legal obligation on your part to pay the deficiency shown.

**Examining Officer's Signature**

[Signature]

**District**

- Baltimore

**Date**

- April 2, 1972
**FORM 4549-A**

**DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE**

**INCOME TAX AUDIT CHANGES**

**RETURN FORM NO.** 1040

---

**NAME**

Richard M. and Patricia R. Nixon  
The White House  
Washington, D.C. 20500

---

**S.S. CNTR. NUMBER**  
567-68-0515

---

**FILING STATUS** Married  
**Filing Joint Return**

---

**PERSON WITH WHOM AUDIT CHANGES WERE DISCUSSED**

- Kenneth Gennill  
  P/A  
- H. Chapman Rose  
  P/A  
- Peter Work  
  P/A

---

1. ADJUSTMENTS TO INCOME

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Contributions other than Cash - Papers</td>
<td>123,959.28</td>
<td>128,668.37</td>
<td>134,093.77</td>
</tr>
<tr>
<td>b. GSA Expenditures to San Clemente</td>
<td>16,301.92</td>
<td>13,303.21</td>
<td>0</td>
</tr>
<tr>
<td>c. GSA Expenditures to Key Biscayne</td>
<td>1,580.00</td>
<td>2,040.70</td>
<td>2,313.12</td>
</tr>
<tr>
<td>d. Income Increased - Sale of Florida Lots</td>
<td>---</td>
<td>---</td>
<td>5,808.30</td>
</tr>
<tr>
<td>e. Sale of San Clemente Property</td>
<td>54,581.50</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>f. Royalty Income Increased</td>
<td>---</td>
<td>10,384.50</td>
<td>---</td>
</tr>
</tbody>
</table>

**TOTAL ADJUSTMENTS FROM PAGE 2**

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
<td>25,144.90</td>
<td>15,682.03</td>
<td>30,460.19</td>
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</tbody>
</table>

---

2. TOTAL ADJUSTMENTS

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
<td>221,567.60</td>
<td>170,083.81</td>
<td>172,675.38</td>
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</tbody>
</table>

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3. CORRECTED TAXABLE INCOME SHOWN ON RETURN

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
<td>(46,114.36)</td>
<td>(5,358.96)</td>
<td>19,707.77</td>
</tr>
</tbody>
</table>

---

4. CORRECTED TAX LIABILITY OR TAXABLE INCOME

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
<td>175,453.24</td>
<td>175,441.87</td>
<td>192,233.15</td>
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5. TAX

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
<td>94,088.20</td>
<td>94,080.47</td>
<td>105,724.37</td>
</tr>
</tbody>
</table>

---

6. ALTERNATIVE TAX IF APPLICABLE

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>88,091.00</td>
<td>(A)</td>
<td>(B)</td>
</tr>
<tr>
<td>---</td>
<td>93,122.33</td>
<td>92,503.13</td>
<td></td>
</tr>
</tbody>
</table>

---

7. TAX SURCHARGE

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
<td>2,202.28</td>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>

---

8. CORRECTED TAX LIABILITY (Lesser of line 5 or 6, plus line 7)

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
<td>90,293.28</td>
<td>93,122.33</td>
<td>92,503.13</td>
</tr>
</tbody>
</table>

---

9. LESS CREDITS (Specify)

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>b.</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>

---

10. BALANCE (Line b less amounts on lines 9a through 9c)

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
<td>90,293.28</td>
<td>93,122.33</td>
<td>92,503.13</td>
</tr>
</tbody>
</table>

---

11. PLUS:

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Tax from recomputing prior year investment credit</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>b. Self-employment tax</td>
<td>538.20</td>
<td>585.00</td>
<td>---</td>
</tr>
<tr>
<td>c. Minimum Tax Form 4625</td>
<td>75.79</td>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>

---

12. TOTAL CORRECTED INCOME TAX LIABILITY (Line 10 plus amounts on lines 11a through 11c)

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
<td>90,907.27</td>
<td>93,707.33</td>
<td>92,503.13</td>
</tr>
</tbody>
</table>

---

13. TOTAL TAX SHOWN ON RETURN

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
<td>792.81</td>
<td>878.03</td>
<td>4,293.17</td>
</tr>
</tbody>
</table>

---

14. STATUTORY DEFICIENCY (Difference between lines 12 and 13)

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
<td>90,114.46</td>
<td>92,829.30</td>
<td>88,204.96</td>
</tr>
</tbody>
</table>

---

15. PENALTIES

<table>
<thead>
<tr>
<th>Year</th>
<th>1970</th>
<th>1971</th>
<th>1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
<td>4,505.72</td>
<td>4,641.47</td>
<td>4,410.25</td>
</tr>
</tbody>
</table>

---

**INFORMATION**

- (A) Maximum tax on earned income from Form 4726
- (B) Maximum tax on earned income from Form 4726

---

**EXAMINING OFFICER'S SIGNATURE**

[Signature]

**DISTRICT**

**DATE** 12/4/71

**INSTRUCTIONS**

- Form 4549-A: Income Tax Audit Changes
- Instructions: Maximum tax on earned income from Form 4726
- Filing Status: Married, Filing Joint Return
Notwithstanding the fact that the taxpayer's 1971 and 1972 returns were subjected to a prior audit by the Internal Revenue Service with no discrepancies found, it is recommended that the addition to the tax provided by Section 6653(a) of the Code be applied to each of these years as well as 1970. It is noted that the taxpayer was issued a complimentary "no change" letter at the conclusion of the first audit, hence the burden of showing negligence shifts to the Government for these years (See Estate of Albert D. Phillips TCM 1955-No. 139; and, L. L. Washburn, 44 TC 217 - 1965).
Analysis of the case law dealing with Section 6653(a), IRC, clearly indicates that each decision rests on a unique factual circumstance from which no firm rules other than general directives can be drawn. The following general circumstances must be considered here:

(1) The taxpayer was a practicing attorney prior to the Presidency.

(2) He allowed his personal tax affairs to be handled by others.

(3) It cannot be concluded from the testimony the depth of the taxpayer's knowledge concerning the details of the tax returns. At this time, we do not know what transpired at the meetings in which the returns were given to the taxpayer for review and execution. The attorneys are claiming privilege and will not discuss their meetings without a written waiver from the client. Although the waiver is to be given, we have not been able to obtain this information as yet.

(4) The records, although complete in most areas, were not sufficiently detailed to enable the Service to make concrete conclusions regarding includability of imputed income and deductibility of expenses.

(5) The handling of the gift lacks the conclusiveness required of a prudent and capable attorney as was indicated in the 1963 year. Delay in the submission
of the deed to the donee until April 1970 seems to indicate a lack of required diligence on the part of the taxpayer and his agents.

(6) There were no clear directives by the taxpayer to his Staff, personal attorneys, and accountants to ensure that all aspects of his personal finances and the preparation of the returns would be accurate.

For example:

(a) No gift tax returns were filed for 1969 or 1970 reporting the large charitable gift because no delegation to do so was issued.

(b) The duties of the agents were not coordinated. The accountant assumed records regarding business expenses were being maintained by the White House Staff and vice versa.

Generally, a taxpayer cannot escape his duty of filing an accurate return by placing responsibility upon an agent. (See William P. Pohlen, 165 F.2d 258, 36 AFTR 520,) This is especially true where the taxpayer fails to furnish his agent with all pertinent data. Even if all data are furnished to the preparer, the taxpayer still has a duty to read the return and make sure all income items are included.
After considering all the facts and circumstances, as outlined above, the addition to the tax under Section 6653(a) of the Internal Revenue Code of 1954 is recommended for each of the years 1970, 1971 and 1972.

We have discussed this issue with the Office of the Assistant Commissioner (Technical) and it was jointly concluded that a substantial case exists for recommending addition to the tax under Section 6653(a), IRC.
Congress of the United States
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION
Washington, D.C. 20515

MAR 22 1974

Mr. Kenneth W. Gemmill
Dechert, Price & Rhoads
1600 Three Penn Center
Philadelphia, Pennsylvania 19102

Mr. H. Chapman Rose
Reavis, Pogue, Neal & Rose
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036

Dear Messrs. Gemmill and Rose:

As you know, usually when a taxpayer's returns are being examined, there are opportunities for discussions with the taxpayer relative to problems which may arise. The staff realizes that this is a special situation because of the office of the taxpayer but, nevertheless, believes that there are certain problems involving items on the President's tax returns that probably can be clarified only by the taxpayer.

As a result, the staff has prepared a series of questions which it believes would be helpful in understanding certain matters with respect to the President's tax returns. I would be most appreciative if you could obtain from the President for us his responses to these questions and any other information which he or you believe would be appropriate for our consideration during the course of our examination of his tax returns.

Sincerely yours,

(Signed) Laurence N. Woodworth

Laurence N. Woodworth

Enclosure

BMS:jsp 3/21/74
I. Income Tax Deduction for the Gift of Papers

1. Could you give us a general explanation of your discussion with President Johnson about gifts of papers to the Government?

   a. Did he tell you that there was a tax advantage in making such gifts?

   b. Did he describe the manner in which his papers were handled by the National Archives and how he gave each year a portion of his papers stored there? In what terms did he describe these procedures?

   c. Did he indicate how his attorneys determined the amount of the gifts to be given each year?

   d. Did he tell you who his appraiser was and what the appraiser did? Could you describe what was said in this regard?

   e. Did he volunteer, or did you request, that someone on his staff brief a member of your staff on the handling of pre-presidential papers? Did you subsequently ask a member of your staff to inquire of either President Johnson's staff or the National Archives personnel about the procedures used by President Johnson with respect to his papers?

2. 1968 Deed

   a. Did you review two versions of a deed? If so, could you describe the differences in the two versions?

   b. Why did you select the version of the deed you signed?
c. Were you concerned that the restrictions contained in the deed might affect the valuation of the gift? Did you recognize any other problems in the restrictions? If so, or if not, why?

3. Discussions with John Ehrlichman

a. Did you tell John Ehrlichman of your intent to make a gift of papers? Did you tell him you wanted to use up the maximum available charitable deduction for 1969? Did you tell him you wanted to give enough to provide a carryover to future years? If you informed him of any of this, when did you tell him? If you did so before July 25, 1969, what reason did you have for doing so this early in the year?

b. If you did give him any of the information referred to above before July 25, 1969, did you discuss when during the year the gift should be made? What reason did you have in early 1969 for wanting the gift to be made significantly earlier than December 31, 1969?

c. If you did not discuss any of the matters referred to above with John Ehrlichman, did you discuss them with anyone else?

4. Did you ever have direct conversations with Edward Morgan about your intent of making gifts of your papers in 1969? If so, what instructions, if any, did you give him?

5. Did you personally ever compute the amount that you wanted to donate?

a. If so, how did you determine the amount?

b. If not, how was the amount to be donated determined and who determined it?

c. When did you decide the amount you wanted to give in 1969?

6. Presidential Library

a. Did you intend to establish a Richard M. Nixon Presidential Library to be the depository for your papers and personal effects?
b. Early in 1969 did you intend to make your donation of papers directly to the Richard M. Nixon Presidential Library?

c. Did you intend to make a gift of any portion of your papers in 1969 before the establishment of your presidential library? If so, why?

7. Courtesy Storage at the National Archives

a. Were you aware of the storage services provided by the National Archives to previous Presidents?

b. Did President Johnson tell you, or are you aware, of any discussions between your staff and his staff concerning the storage services provided to Presidents by the National Archives?

c. Did you realize that storage would be provided by the National Archives whether or not a gift was made?


a. Did you discuss with any member of your staff or anyone else the tax consequences of the delivery of your pre-presidential papers to the National Archives on March 26-27, 1969? If so, with whom?

b. Did you have any discussions with any member of your staff about the provisions in the House and Senate versions of the Tax Reform Act of 1969 relating to gifts of papers? If so, did you instruct or otherwise ask them to inquire about these provisions? Did you in any respect indicate an interest that any member of your staff discuss this matter with the Treasury Department or any Member of Congress or anyone else? If so, who, and what were your instructions?

c. Between July 25, and December 31, 1969, were you advised by any member of your staff or other person that some or all of the papers delivered to the National Archives had been donated before July 25, 1969? If so, who advised you and when? How were you told the gift had been made?
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION
Washington, D.C. 20515

9. Discussions about Pre-presidential Papers after 1939
   a. In 1970, did any member of your staff or any other person ask whether you intended to claim a deduction for your donation of papers on your 1969 tax return?

10. 1969 Deed
   a. Did you give Edward Morgan a power-of-attorney in general, or specifically, to sign your name on any deeds of gift of your papers?
   b. Were you ever consulted or informed about a deed of gift for your 1969 papers? If so, by whom and when? Please describe what was said by all parties.
   c. When were you aware that a deed had been signed on your behalf by Edward Morgan?

11. Signing of Tax Return on April 10, 1970
   a. Who was with you when the tax return was signed?
   b. Did you examine your tax return and have any discussions about the deduction for the gift of your papers? If so, what was said?
   c. Did you have any discussions about the deed at that time with those present? If so, what was said?
   d. Did you discuss in any way the 1969 change in the tax laws regarding the gift of papers? Did you discuss the impact of the change on the 1969 gift? On future gifts?
would you discuss generally the conversation about your tax return, the manner in which you reviewed it, and any other factor relevant to your tax return and the deduction for gift of papers during the period prior to, during, and after the signing of your tax return on April 10, 1970?

f. Was the recording device in place in your office on April 10, 1970? If so, was it working during the period you were discussing your tax return? If so, could we have a transcript of the conversation?

II. San Clemente Property

1. Were you involved in the determination of the selling price of the portion of the San Clemente property which was sold to B&C Investment Company? Would you discuss generally your knowledge, intent, and any other relevant factor involving the purchase and sale of that portion of your property in 1970.

2. Did you have any discussions with your staff or your accountants or lawyers on the use of your residence at San Clemente for business purposes? Could you provide us with your understanding as to how the 25 percent business usage on your San Clemente property was determined?

III. Sale of New York Apartment

Were you aware that a deduction was taken on your 1968 tax return and on tax returns of earlier years for the use of part of your New York City cooperative apartment for business purposes?

IV. Key Biscayne Property

What are your present intentions with respect to the future use of your properties at Key Biscayne?

V. Family Use of Government Airplanes

1. We understand that as of April 1, 1971, you instructed your staff to bill you for travel on Government planes by
Tricia and Edward Cox and Julie and David Eisenhower when they travel in other than an official capacity. Could you furnish us any information as to the treatment of those trips prior to your instructions and the method that was to be used in billing you for the trips subsequent to your instructions? On what basis is the billing for the subsequent period determined, and if it is different from the method used to bill the Press Corps for the use of Government planes, would you explain the reasons for the difference in the billing methods. How is it determined, and by whom, that your daughters and their husbands are traveling in official capacity?

2. We understand that during the period of April 1, 1972, through November 16, 1972, there were no reimbursements by you to the Treasurer of the United States for family travel on Government aircraft. Could you furnish us with information as to whether the travel during this period was reimbursed and, if so, by whom and why? Was any of the travel during this period for personal purposes and, if so, could you furnish us a list of such trips?
MEMORANDUM FOR THE RECORD:

We have attached for your information excerpts from the IR Manual, Section 4563, which discuss various criteria on the basis for assertion of a negligence penalty. These guidelines are used by Revenue Agents and Tax Auditors in the regular course of audit examinations.

We have also attached for convenient reference excerpts from the CCH tax service. These sheets delineate a number of cases along with short excerpts bearing upon the imposition of the negligence penalty. Those cases which we have bracketed with ballpoint pen are those cases which support nonassertion of the penalty; cases highlighted in yellow are cases which support assertion of the penalty.

We have also attached a copy of a memorandum dated August 12, 1969, from John Ehrlichman to Herb Kalmbach which refers to a memorandum dated July 16, 1969, from Roger Barth to Edward L. Morgan. This memorandum contains a series of very pointed and specific questions regarding the tax treatment of many items.

There is also another memorandum attached, dated June 16, 1969, from John Ehrlichman to Ed Morgan, containing specific instructions regarding the use of San Clemente and Key Biscayne, referring specifically to the tax consequences.
With regard to the penalty under Section 6653(a), the following items which were developed in the course of this audit require significant analysis and consideration:

Sale of Florida Lots - 1972
In connection with this item, we propose to make a substantial adjustment to the taxpayer's income for 1972 and subsequent years, since it is an installment transaction. The purported partnership did not, in fact, exist. The transaction supposedly was supported by a memorandum between the taxpayer and his daughter; however, we subsequently determined that no such memorandum ever existed.

We have just received a memorandum by the principal stating that no written agreement ever existed.

Royalty Income - 1971
From our examination of the Nixon Foundation, it was determined that an alleged assignment of royalty income by the taxpayer to his Foundation was made. Our investigation revealed that no assignment of title to the manuscript was ever made, and income was assigned as the result of verbal instructions from the taxpayer.

Guest Fund - 1970 - 1972
The taxpayer deducted all expenses incurred while away from his tax home in Washington, D.C. Although substantiation of amounts expended were obtained, taxpayer did not retain any substantiation whatsoever as to the purpose of the expenditure or the names of individuals for whom supposedly official entertainment was conducted.
This was in spite of the memorandum from Roger Barth informing him of the requirements of Section 274 and the necessity of maintaining detailed records.

Use of Airplane - 1970 - 1972

The taxpayer permitted his children, wife, and friends to use government planes. For the period April 1, 1971, through December 31, 1972, reimbursement was made by the taxpayer and/or the Committee to Re-elect the President for the use of these planes by his children only. We have been unable to ascertain why the taxpayer found it necessary to reimburse for this use starting April 1, 1971. The taxpayer did not reimburse for the use of the plane if he also traveled with his children.

Business Expense at San Clemente - 1970 - 1972

The taxpayer deducted 25% of the operating expenses and depreciation of his San Clemente residence. We were given no substantiation whatsoever to support this 25% deduction other than that 25% is better than 50%. The taxpayer's representative did give us a detailed itinerary of the taxpayer's use of the Western White House but was unable to show that the use of the residence would qualify for any deduction.

Taxpayer's representative was requested to furnish us with the basis for the computation of the 25% business use which was deducted on the tax return. As of this date, he has been unable to furnish us
with either a basis for the deduction or a method for computing the deduction. We are, therefore, proposing to disallow the entire 25%.

Careful consideration of the above proposed adjustments and the circumstances giving rise to these adjustments warrants assertion of the Section 6653(a) penalty.

A decision against assertion of this penalty would have to be based on the prior examination and the issuance of the letter of commendation to the principal.

(See Special Note attached)

Barring development of other significant or material information or facts bearing on Section 6653(b), our position at this particular point and time would be the recommendation of the assertion of the 5% penalty.
SPECIAL NOTE

In connection with our conversation with you in your office on Wednesday, March 20th, we feel that there will, in all likelihood, be an immediate tendency to compare the results of the current audit with the result of the May 1973 audit.

The original audit was not an indepth audit. It was completed in a very short period of time and apparently consisted of a verification of amounts rather than purpose. The agents were not aware that the basic substantiation was not available or in some cases non-existent.

The subsequent audit was conducted on an indepth basis and included assignment of specialists as well as income tax agents. Only this type of examination could have brought to light the above mentioned inadequacies which would appear to support assertion of the Section 6653(a) penalty.
TO: HERB KALMBACH
FROM: JOHN EHRlichMAN

Some time ago we posed a number of tax questions which have now been briefed by the confidential assistant to the Commissioner of Internal Revenue.

Herewith is a complete copy of this file for your personal and confidential use in connection with the matters to be discussed concerning the President's affairs.

When you are ready to spend some time on this, please call Jana Hruska and we will arrange an appointment. I suggest it be during the week that Ed Morgan is here for the Trustees meeting in order that he can participate.

Attachment
CONFIDENTIAL

MEMORANDUM TO: Edward L. Morgan
Deputy Counsel to the President
(for John Ehrlichman)
The White House

FROM: Roger V. Barth
Assistant to the Commissioner

Following in brief are the results of my research and my reactions to the points raised in John Ehrlichman's two memos dated June 16, 1969, copies of which are attached, with regard to the President's income tax matters.

1. The President intends to use the San Clemente house for official visits and his den as an office for Presidential activities. A deduction would be permitted for depreciation and maintenance expenses (all property taxes and mortgage interest being deductible in any event) based on a formula considering the amount of time used for business purposes and the square foot percentage of the house used. It would be necessary to devise a system for keeping track of this business use.

2. I have determined that the total amount to be paid to the President in 1969 will be $236,458.32, including the percentage of the $50,000 taxable expense allowance. The Federal withholding will total $74,983.26. The President's withholding statement reflects only two exemptions and there is no extra reduction in the withholding to reflect the fact that he will take the full 30% charitable deduction.
a. A determination of whether the President is being overwithheld must await the resolution (discussed below) of his deductions for business expense;

b. I would assume that his interest expense would be the same as the last few years, i.e., about $25,000;

c. I would need to have an estimate of his real property taxes for 1969; I understand that a conclusion was reached in New York that the President is exempt from D. C. income tax.

d. The amount of the charitable 30% deduction can be determined. I am in the process of checking the legislative history on the $50,000 allowance to determine whether it is included in adjusted gross income with the effect that it will increase the amount of the charitable deduction;

e. I would need an estimate of the President's outside income.

3. a. I personally agree with the idea that much of the President's expense is related to his "business." As with the business use of his residence, a careful system must be established for keeping track of business expenses to meet the substantiation requirements of Internal Revenue Code §274. It is clear from the statute, Title 3, §102, that the President must account for the $50,000 for income tax purposes. When I examine the legislative history on this section I may have some more specific guidelines to give you.

b. Small gifts by the President which are related to his "business" would be deductible under the same conditions as his entertainment expense with the additional limitation that no more than $25 per year may be deducted with respect to any one donee. Once again, a system of recordkeeping is necessary if it is not
already established. Note, however, that we must give
to distinguishing between activities and gifts
related to "being a President" and those related to
running for reelection.

4. If the President were to permit others to use the
Florida and California homes, deductibility of a portion of
depreciation and maintenance expense would be tied into the
space-time use formula discussed above in paragraph 1. In
addition, unlike official visits, we would have to establish
the business purpose for the President with regard to each
person invited to use the homes.

5. Since the Smathers' house in Florida will be used
only for meetings and business, I concur that depreciation
and maintenance expense should be deducted.

6. Legally we might justify deduction as a business
expense for a salary paid to Julie as a tour guide this
summer. However, for the following reasons, I most strongly
recommend that this not be done:

a. the amount involved is rather small;

b. this is always a factual question which could
be raised on audit of whether she is necessary to the
taxpayer's "business";

c. in addition to Federal withholding data which
would get into the files at the IRS, information would
have to be given to the Massachusetts tax authorities
and to the Social Security people. There are too many
entities involved for this to be kept confidential;

d. the newspapers have made much of the fact that
she has been acting as a "volunteer." I think the
risk of exposure of a business deduction attempt is
too great;

E. Julie cannot be taken as an exemption by the
President for 1969 unless three conditions are met:
1. he provides more than half of her support;
2. David does not take her as an exemption;
3. she and David do not file a joint return.

f. The best approach would be for the President to make a gift at the end of the summer to Julie. Although it would not be deductible to him, it would be tax-free to her.

7. I understand that someone at the Vincent Andrews firm is continuing to keep track of a number of the items mentioned above. I think it is most important that a regular accountant be retained either there or in Washington to handle the day-to-day recordkeeping. Once he is picked, I could work closely with him in establishing procedures and in handling problems as they arise.

Attachments
TO: ED MORGAN
FROM: JOHN EHRlichMAN

Vincent Andrews has lost Marty Feinstein.

The President has decided that he would like his income tax handled locally.

Do we have the ability to detail someone from IRS to handle his financial matters? If not, do you have a recommendation?

This is something we should move on rather quickly.

Another subject:

The President intends to use the San Clemente house for official visits and he intends to use his den as an office for Presidential activities. What write-offs are available to him?

Will you please have someone carefully check his salary withholding to see if it takes into account the fact that he will be making a full 30% charitable deduction.

He would like you to secure the services of an expert if we don't have anyone in our office competent to make this review, and to have that person come in and review with him his new tax status, going over with him his last returns and his current estimate.

The President holds the view that a public man does very little of a personal nature. Virtually all of his entertainment and activity is related to his "business". He wants to be sure that his business deductions include all allowable items. For instance, wedding gifts to Congressmen's daughters, flowers at funerals, etc. He has in mind that there is some kind of a $25 limitation on such expenses.
He suggests that we might review the returns of one or more previous Presidents for guidance.

Another subject:

What are the tax consequences of permitting others to use the Florida and California houses?

Another subject:

Note that the Smathers house in Florida will be used only for meetings and business, not for personal residence. Accordingly, the accountant should be instructed to depreciate and write off its expenses as business expenses.
MEMORANDUM

December 27, 1953

TO    PRESIDENT-ELECT NIXON
FROM  R. S. RITZEL

Enclosed herewith are two forms of Chattel
Deed running from you to The United States of America.
The one marked "A" is a simple form of conveyance of
papers, manuscripts and other materials without restriction
of any kind except that they are ultimately to be placed
in the Presidential archival depository.

The second, marked "B", is a form of Chattel
Deed which conveys such papers, manuscripts and other
materials to the United States but places restrictions
as to their use. The limitations, briefly, are as follows:

1. You shall have right of access at all times.

2. During such time as you hold the office of
President of the United States, no other persons shall
have right of access except those designated by you
in writing to the General Services Administrator.

3. The items are to be placed in the Presidential
archival depository at such time as the same is es-
tablished.

4. Items No. 3 and 4 in the Chattel Deed are technical provisions which we feel are necessary for the purposes for which the gift is being made.

By way of explanation, we have been culling your files in our warehouse, and likewise have been in touch with Ralph Newman, who has been the appraiser for the L.B.J., Truman, Kennedy and other gifts of Presidential papers to the United States. Newman will be in New York on Monday to go over items which have been culled to date from the files. It is not our intent to give all of your papers at this time but rather only such as will be appraised at a value which will be somewhat in excess of the maximum charitable deduction which you can take on your 1963 income tax return. I have been in touch with Marty Feinstein, and he advises me that this figure is about $60,000.

The reason for the two Chattel Deeds is that at the present time we are not completely clear that there are sufficient papers which could be made available to the public at the moment and which would not be considered in the sensitive area. If we do find by Monday that there are
such papers, then we will use only the Deed marked "A". If, however, we feel that there may be some which should be restricted from public perusal while you are the President of the United States, we will use the Deed marked "B". It is more advantageous to use "A" only, but we have not had the time, since I discussed this matter with you Sunday last at the apartment, to complete a sufficient examination of the files to be sure that there are papers and manuscripts which would not be considered to be in the sensitive area. The reason for the unrestricted gift is that the value, for tax deduction purposes, will undoubtedly be higher than those upon which restrictions are placed.

I would therefore suggest that both Deeds be executed by you, in duplicate. Mr. Krogh, who is the bearer of this memorandum and the enclosures, will bring them back to New York so that they will be available on Monday. At that point, we will be able to go over the papers with Newman and attach the necessary schedules, for which I presume we will have your authority, to either or both Deeds and make delivery to the General Services Administrator. I might also add, for your information, that the forms of Deeds have been cleared both with the
Commissioner of Internal Revenue and the General Services Administrator, and arrangements have been made for a representative of the General Services Administrator to receipt for the papers to be delivered at this office on either Monday or Tuesday of next week, so that the matter will be completed before the end of the year.

R. S. R.
EXAMINATION OF PRESIDENT NIXON'S TAX RETURNS FOR 1969 THROUGH 1972

PREPARED FOR THE
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION
BY ITS STAFF

APRIL 3, 1974.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1974

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C., 20402 - Price $6.50
A-3

Exhibit I - 1

CHATEL DEED

from

RICHARD M. NIXON

to

THE UNITED STATES OF AMERICA

Dated: December 30, 1968
CHATTEL DEED
from
RICHARD M. NIXON
to
THE UNITED STATES OF AMERICA

The undersigned, Richard M. Nixon, does hereby give, assign, transfer, set over and deliver unto The United States of America all of his right, title and interest in and to the papers, manuscripts and other materials (hereinafter collectively referred to as "the Materials") which are listed and described in Schedule A annexed hereto and hereby made a part hereof, to have and to hold the same to The United States of America forever.

This conveyance is made to The United States of America without any reservation to the undersigned, Richard M. Nixon, of any intervening interest or any right to the actual possession of the said Materials, it being understood that the delivery of this Chattel Deed to the General Services Administrator shall convey to The United States of America the right and power immediately to take possession of the said Materials and to hold, use and
dispose of the same, subject only to the following commitments made on behalf of The United States of America by the General Services Administrator:

1. The undersigned shall have the right of access to any and all of the Materials and the right to copy or to have copied any and all of the Materials by any means of his selection, and to take and retain possession of any or all such copies for any purpose whatsoever. During such time as the undersigned shall hold the office of President of the United States, no person or persons shall have the right of access to such Materials except the undersigned and those who may be designated in writing by the undersigned, and in the case of any person or persons so designated, such right of access shall be limited to those Materials as shall be described in the instrument by which he, she, it or they shall be designated, and, for the purposes specified in such instrument; and, if such instrument shall so provide, the person or persons designated therein shall have the further right to copy such of the Materials as shall be described in such instrument and to take and retain possession of such copies for such purposes as shall be specified in said instrument.
The undersigned shall have the right and power at any
time during his lifetime to modify or remove this
restriction as to any or all of the Materials and/or
to grant access to any group or groups of persons
by notification in writing to the General Services
Administration or other appropriate agency of The
United States of America.

2. If a Presidential archival depository shall
be established for the housing and preservation of
the Materials pertaining to the career of the undersigned
in public service, then, as soon as practicable after
the establishment of such depository, the Materials
shall be transferred to and thereafter housed and
preserved at such Presidential archival depository.
Until the establishment of such a depository, the
Materials shall be housed and preserved at a place to
be selected by the General Services Administrator
or other appropriate agency of The United States of
America.

3. None of the foregoing restrictions is
intended to prevent the Materials from being used
exclusively for public purposes, and in no event
shall any of the said restrictions be so construed.
4. Notwithstanding the foregoing restrictions, employees specifically designated by the archivist of the National Archives and Records Service shall, in the course of performance of their necessary archival duties, have such access to the said Materials as shall be necessary for normal archival processing activities.

By the signature of his duly authorized agent below, the General Services Administrator accepts this conveyance for and on behalf of The United States of America, and confirms the commitments made by his office on behalf of The United States of America, as set forth above.

This instrument is executed in duplicate, each of which is an original, but both of which taken together shall be deemed one and the same instrument.

Dated: 1/17/71

[Signature]
Richard M. Nixon

GENERAL SERVICES ADMINISTRATION
The materials conveyed by the Chattel Deed of which this Schedule is a part are located in packing cases identified by roman numbers I through XXI. The column at the left identifies each packing case by reference to its number, the center column describes the materials contained in such case in general terms and the column to the right shows the approximate number of items contained in such case.

<table>
<thead>
<tr>
<th>Case</th>
<th>Description</th>
<th>Items</th>
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<tr>
<td>I</td>
<td>Children's Letters</td>
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<td></td>
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</tr>
<tr>
<td>III</td>
<td></td>
<td></td>
</tr>
<tr>
<td>IV</td>
<td>82nd Congress</td>
<td>2,500</td>
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<tr>
<td>V</td>
<td>Campaign of 1964</td>
<td>3,000</td>
</tr>
<tr>
<td>VI</td>
<td>1965 Appearances, Trips</td>
<td>3,000</td>
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<td>VII</td>
<td>Plaques and Key (5)</td>
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<td></td>
<td>Whittier Year Book 1966</td>
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<td>8 Tapes</td>
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<td>VIII</td>
<td>Far East Trip</td>
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<td>IX</td>
<td>1960 Campaign</td>
<td>3,000</td>
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<td>X</td>
<td>1959 Speech Files</td>
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<td></td>
<td>(Correspondence and copies)</td>
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<tr>
<td>XI</td>
<td>1964 Campaign Tapes in Chronological Order</td>
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<tr>
<td>XII</td>
<td>Plaques, Key, Picture</td>
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<tr>
<td>XIII</td>
<td>1960 Campaign Clippings</td>
<td>1,000 items</td>
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<td>XIV</td>
<td>Six Crisco Manuscript</td>
<td>2,000 items</td>
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<td>XV</td>
<td>1959 Appearances, Trips</td>
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<td>XVI</td>
<td>1953 Trip - Far East</td>
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<td>Letters, Notes</td>
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<td>XVII</td>
<td>1955 Central American Trip</td>
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<tr>
<td>XVIII</td>
<td>1956 Trip - Philippines, Pakistan, etc.</td>
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<tr>
<td>XIX</td>
<td>1964 Correspondence Prior to Republican Convention</td>
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<td></td>
<td>Young People's Correspondence Book on 1964 Convention</td>
<td>1,250 items</td>
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<td>XX</td>
<td>1954 Itineraries, Appearances</td>
<td>1,250 items</td>
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<td>Foreign Dignitaries</td>
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<td>(met by Nixon)</td>
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<td>XXI</td>
<td>1964 Campaign Notes</td>
<td>3 items</td>
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<td>(plus 2 Books and Framed Plaque)</td>
<td></td>
</tr>
</tbody>
</table>
CHATTEL DEED
from
RICHARD M. NIXON
to
THE UNITED STATES OF AMERICA

The undersigned, Richard M. Nixon, does hereby give, assign, transfer, set over and deliver unto The United States of America all of his right, title and interest in and to the papers, manuscripts and other materials (hereinafter collectively referred to as "the Materials") which are listed and described in Schedule A annexed hereto and hereby made a part hereof, to have and to hold the same to The United States of America forever.

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dispose of the same, subject only to the commitment made on behalf of The United States of America that a Presidential archival depository, within the meaning of 44 U.S.C.A. 397, shall be established for the purpose of housing and preserving materials pertaining to the career of the undersigned, Richard M. Nixon, in public service; then, as soon as practicable after the establishment of such Presidential archival depository, the materials shall be transferred to and thereafter housed and preserved at the depository.

By the signature of his duly authorized agent below, the General Services Administrator accepts this conveyance for and on behalf of The United States of America, and confirms the commitment made by his office on behalf of The United States of America, as set forth above.

This instrument is executed in duplicate, each of which is an original, but both of which taken together shall be deemed one and the same instrument.

Dated:

________________________
Richard M. Nixon

GENERAL SERVICES ADMINISTRATION

By ________________________
EXAMINATION OF PRESIDENT NIXON'S TAX RETURNS FOR 1969 THROUGH 1972

PREPARED FOR THE
JOINT COMMITTEE ON
INTERNAL REVENUE TAXATION
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Washington, D.C., 20402 - Price $6.50
MEMORANDUM

THE WHITE HOUSE
WASHINGTON
February 6, 1969

TO: THE PRESIDENT
FROM: JOHN EHRlichMAN
SUBJECT: CHARITABLE CONTRIBUTIONS AND DEDUCTIONS

As you know, we arranged for the maximum 30% charitable gift-tax deduction in 1968 by donating a portion of your papers appraised at the necessary amount to the United States. Again this year you are in a position to make charitable contributions up to 30% of your adjusted gross income. Of this 30% maximum deduction, 20% can be for any charitable enterprise designated in the code. For over 20%, up to a maximum of 30%, the gift must be to a governmental entity for a public purpose. This would include a gift of your papers.

I would suggest that we arrange a schedule of charitable contributions from sales of your writings, so that each year you can give to those charities you select 20% of your adjusted gross income. The remaining 10% will be made up of a gift of your papers to the United States. In this way, we contemplate keeping the papers as a continuing reserve which we can use from now on to supplement other gifts to add up to the 30% maximum.
Regarding the gift of proceeds from publication of the preface to SIX CRIMSES by LADIES' HOME JOURNAL, we are arranging for LADIES' HOME JOURNAL to pay the proceeds directly to Boys Clubs of America and Young People of America, Inc., the organization which supports Jimmy McDonald. While we will have to account for these proceeds in gross income, the amount will be deductible as a charitable contribution.

1. good
2. Let me know what we can do on the foundation idea -