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August 31, 1974

MEMORANDUM FOR: General Haig
FROM: Phil Buchen
**SUBJECT: Travel of the President, his Family
and Friends on Military Aircraft**

J. Fred Buchardt mentioned to me a matter raised with you by the Military Assistant concerning travel by the President, his family, and friends in military aircraft. For the Vice President, I made some investigation of the tax consequences of furnished transportation. Therefore, I would like to have a copy of any proposed recommendation in this regard.

PWBuchen:ed



THE WHITE HOUSE

WASHINGTON

September 6, 1974

MEMORANDUM FOR:

PHIL BUCHEN

FROM:

JERRY JONES

SUBJECT:

Travel of the President, his
Family, and Friends on Military
Aircraft

General Haig has asked that I send you the attached report in accordance with your request of August 31st.

Attachment



THE WHITE HOUSE

WASHINGTON

August 30, 1974

MEMORANDUM FOR: GENERAL ALEXANDER M. HAIG

FROM: J. FRED BUZHARDT

SUBJECT: Travel of the President, his Family and Friends on Military Aircraft, and the Memorandum to You From the Military Assistant dated August 23, 1974

The memorandum from the Military Assistant is accurate as to the staff report of the Joint Committee on Internal Revenue Taxation except for the matters set forth in paragraph b. "First Family Members." The staff report recommended that the personal use of government aircraft by the President's family and friends should result in income attributable to the President, but no such recommendation was made with respect to trips by the President's family and friends for official purposes. The staff took a practical view of what constituted "official" use, but, in effect, placed the burden on the President to establish that any given trip by the family was official.

Accordingly, it would appear that the practice of President Nixon to reimburse the Government for family members' personal trips unaccompanied by the President aboard military aircraft at first class commercial rates was acceptable, and no assessment would have occurred had the records adequately reflected the precise purpose of each of the trips.

The staff report indicates that the same rule, in the staffs' opinion, should be applied where family members and personal friends accompany the President aboard Air Force One. Opinions expressed orally by individual members indicated this would be going too far, and the Internal Revenue Service did not assert such a position, although the Internal Revenue Service did follow the staff opinion with respect to unaccompanied travel by family members and personal friends.



A copy of the relevant portion of the staff report of the Joint Committee on Internal Revenue Taxation is attached.



PART SIX

PERSONAL USE OF GOVERNMENT AIRCRAFT BY THE PRESIDENT'S FAMILY AND FRIENDS

1. Scope of Examination

Since the President took office in 1969, members of his family and their friends, unaccompanied by him in many instances, have travelled extensively in the United States on Government aircraft. It appears that some of these flights were in connection with the performance of official duties, such as standing in for the President in his absence. This seems to be particularly true for many of the trips by Mrs. Nixon.

A question has been raised whether, for flights which were not primarily official business and, therefore, personal, the cost of such unreimbursed Government-furnished transportation should be considered additional income to the President.

Flights that appear to be personal are particularly those taken by Julie and Tricia to join either David Eisenhower or Edward Cox while the latter were either students or stationed in various cities other than Washington, D.C. On several occasions both Edward Cox and David Eisenhower joined Julie and Tricia on flights to and from these same cities and to and from the President's homes in either Key Biscayne, Florida, or San Clemente, California. Occasionally, members of the President's family took along friends or guests on these flights.

Effective April 1, 1971, the President adopted a policy of reimbursing the Treasury for flights of his daughters and their husbands (or husband to be in the case of Edward Cox) when such travel was in "other than an official capacity." In doing so, the President apparently decided that there was in fact personal travel by members of his family in Government-furnished aircraft and that it was possible to make a determination as to what was personal and what was official. However, this policy was not in operation for the entire period during which members of the President's family and their friends availed themselves of Government air transportation. In addition, it does not appear that reimbursements were made for all "personal" flights after April 1, 1971.

During the course of its examination of the President's tax returns, the staff made an estimate of the amount of personal travel by members of the President's immediate family and their guests on Government planes over the four-year period under review, 1969-1972. The staff requested flight manifests from the White House for flights taken on Government aircraft by members of the President's family. The White House transmitted flight manifests for 1969-1972 for air travel of members of his family (and friends and guests that accompanied his family) when they traveled without the President.



Information was not supplied as to family members or friends who may have accompanied the President on flights on his vacation and weekend trips, although a list of all the President's flights was made available to the staff for this period.

Based upon the flight manifests supplied, the staff has computed the value, based upon first class air fare, of air travel by the President's family that did not appear to be primarily official and, therefore, appears to be personal travel.

2. Analysis of Tax Treatment

Economic Benefit to the President

This aspect of the examination involves two basic questions. The first is whether the free use of Government transportation by the President's family and friends created income subject to Federal tax. If the answer to the first question is in the affirmative, it is necessary to determine to whom the income should properly be taxed.

Under section 61 of the Internal Revenue Code of 1954, gross income is defined as "all income from whatever source derived" unless excluded by other provisions of the Internal Revenue Code. The statute specifically enumerates 15 items included within the definition, but carefully provides that gross income is not limited to these 15 items.¹ In providing this all-inclusive language, it is clear that Congress intended that the term "gross income" be given a broad interpretation.² In discussing section 61 of the 1954 Code, the Committee Reports note that the new section corresponds to section 22(a) of the 1939 Code and states that "[w]hile the language in existing section 22(a) has been simplified, the all-inclusive nature of statutory gross income has not been affected thereby."³

The courts, in carrying out this Congressional intent, have continually recognized that the term "income" should not be limited in scope, but should be broadly construed. The Supreme Court, in addressing itself to the question of what constitutes "gross income," has stated that the starting point "begins with the basic premise that the purpose of Congress was to use the full measure of its taxing power." *James v. U.S.*, 366 U.S. 213, 218 (1961).⁴ It has been repeatedly held that it "was the intention of Congress to tax all gains except those specifically exempted." *James v. U.S.*, *supra*, at p. 219.⁵

Amounts received by an employee from his employer are generally taxed to the employee as compensation because of the existing employment relationship. This does not mean that an expenditure by the employer is income only if it is intended to be conferred as actual compensation for services rendered. Such a concept of gross income is too restrictive.⁶ Further, items of gross income need not be in the form of cash; it is sufficient that an item can be valued in terms of money. In *Commissioner v. John Smith*,⁷ a case dealing with the taxability of a stock option, the Supreme Court stated that section 22(a) of the Revenue Act of 1938 (predecessor of section 61 of the

¹ 26 U.S.C. section 61.

² *Commissioner v. Glenshaw Glass Co.*, 348 U.S. 426, 432 (1955).

³ H.R. Rep. No. 1337, 83d Cong., 2d Sess. A18; S. Rep. No. 1622, 83d Cong., 2d Sess. 168.

⁴ Citing *Helvering v. Clifford*, 309 U.S. 331 (1940).

⁵ Citing *Commissioner v. Jacobson*, 336 U.S. 28, 49; *Helvering v. Stockholms Enskilda Bank*, 293 U.S. 84, 87-91.

⁶ *U.S. v. Gotcher*, 401 F. 2d 118 (5th Cir. 1968).

⁷ *Commissioner v. John Smith*, 324 U.S. 117 (1945).

1954 Code) "is broad enough to include economic or financial benefit conferred on whatever the form or mode by which it

The issues presented here are to an public record of prior determinations of of this type. It is possible however to up of the employment relationship which em ment and the President and to examine area of benefits flowing between the em also considers the many decisions involv relationship to have an application to

The apparent proliferation in the for the personal use of employees and provide tax-free fringe benefits or const increased attention by the Service in r not presently an announced uniform issue, probably because of the diverse t trasting applicable tax theories, and inherent in this area.

In the early history of the Federal ir policy of the Internal Revenue Servic that an employee or shareholder reali bargain rate use of corporate assets or a measurable direct economic benefit at shareholder relationship. In *Hillman v. 1934 CCH ¶9325* (3rd Cir. 1934), it rent-free use of a residence which he owned corporation was not income to th decision was followed by the Fifth Circu 111 F. 2d 376, 40-1 U.S.T.C. ¶9373 (5 situation. In 1941, the Third Circuit t *Hillman* and criticized the *Richards* dec shareholder did realize taxable income living quarters. *Chandler v. Commis. U.S.T.C. ¶9393* (3rd Cir. 1941). Yet, followed its *Richards* decision in *Peaco. 160, 58-2 U.S.T.C. ¶9603* (5th Cir. 19 a corporation-owned residence. In *Roa. 919* (1930), Nonacq. X-1 Cum. Bull. 9 use of a corporate yacht by family me holder did not create taxable income to 4 Cum. Bull. 110 (1921), it was held passes issued by a railroad company to i to be used when not engaged in comp under employment contracts, were gift- employees. O.D. 946 has not been citi cision or policy announcement. The questionable present application since i tion the Service has taken with regard employees or shareholders and their fa

More recently the Internal Revenue fully that a shareholder's use of a w resulted in income to the shareholder. constructive dividends were realized from t



1954 Code) "is broad enough to include in taxable income any economic or financial benefit conferred on the employee as compensation, whatever the form or mode by which it is effected."

The issues presented here are to an extent unique, since there is no public record of prior determinations of tax consequences in a situation of this type. It is possible however to approach these questions in light of the employment relationship which exists between the U.S. Government and the President and to examine the authorities in the general area of benefits flowing between the employer and employee. The staff also considers the many decisions involving the corporation-shareholder relationship to have an application to this area of the examination.

The apparent proliferation in the use of corporate-owned assets for the personal use of employees and shareholders as a device to provide tax-free fringe benefits or constructive dividends has received increased attention by the Service in recent years. However, there is not presently an announced uniform official policy on the general issue, probably because of the diverse types of benefits available, contrasting applicable tax theories, and the enforcement problems inherent in this area.

In the early history of the Federal income tax it was the apparent policy of the Internal Revenue Service and the courts to consider that an employee or shareholder realized income from the free or bargain rate use of corporate assets or services only where there was a measurable direct economic benefit arising from the employment or shareholder relationship. In *Hillman v. Commissioner*, 71 F. 2d 688, 1934 CCH ¶9325 (3rd Cir. 1934), it was held that a shareholder's rent-free use of a residence which he had contributed to a family-owned corporation was not income to the individual shareholder. This decision was followed by the Fifth Circuit in *Richards v. Commissioner*, 111 F. 2d 376, 40-1 U.S.T.C. ¶9373 (5th Cir. 1940), on a similar fact situation. In 1941, the Third Circuit then reversed its earlier rule in *Hillman* and criticized the *Richards* decision in holding that an officer-shareholder did realize taxable income for the use of corporate-owned living quarters. *Chandler v. Commissioner*, 119 F. 2d 623, 41-1 U.S.T.C. ¶9393 (3rd Cir. 1941). Yet, the Fifth Circuit subsequently followed its *Richards* decision in *Peacock v. Commissioner*, 256 F. 2d 160, 58-2 U.S.T.C. ¶9603 (5th Cir. 1958), again involving the use of a corporation-owned residence. In *Roach v. Commissioner*, 20 B.T.A. 919 (1930), Nonacq. X-1 Cum. Bull. 91, it was held that the personal use of a corporate yacht by family members of the controlling shareholder did not create taxable income to the shareholder. In O.D. 946, 4 Cum. Bull. 110 (1921), it was held that personal transportation passes issued by a railroad company to its employees and their families, to be used when not engaged in company business and not provided under employment contracts, were gifts and not taxable income to the employees. O.D. 946 has not been cited in any other published decision or policy announcement. The staff also considers it to have questionable present application since it is inconsistent with the position the Service has taken with regard to other economic benefits to employees or shareholders and their families.

More recently the Internal Revenue Service has contended successfully that a shareholder's use of a wide range of corporate assets resulted in income to the shareholder. The courts have held that constructive dividends were realized from the shareholder's personal use of

GERALD R.

a corporate owned yacht,⁸ an automobile,⁹ supplies and materials,¹⁰ and a lake house.¹¹ Constructive dividends have also been found to result to the shareholder by corporation payments of the shareholder's home expenses,¹² club expenses,¹³ life insurance policy premiums,¹⁴ and travel expenses.¹⁵

The court decisions have not been confined to constructive dividend results, but have also found that compensation income resulted from the personal use of corporate facilities or from corporate payments for personal purposes of the individual taxpayer. In *Rodgers Dairy Co. v. Commissioner*, 14 T.C. 66 (1950), an officer's use of a corporate automobile was taxed to the officer as compensation. See also, *Dole v. Commissioner*, 43 T.C. 697 (1965), *aff'd* per curiam, 351 F. 2d 308, 65-2 U.S.T.C. ¶9688 (1st Cir. 1965). In *Silverman v. Commissioner*, 253 F. 2d 849, 58-1 U.S.T.C. ¶9433 (8th Cir. 1958), *aff'g*, 28 T.C. 1061 (1957), a corporation's payment of travel expenses for the wife of an employee, who accompanied the employee on a business trip, was also found to result in additional compensation to the employee. In *Dean v. Commissioner*, 9 T.C. 256 (1947), and *Chandler v. Commissioner*, 41 B.T.A. 165 (1940), *aff'd*, 119 F. 2d 623, 41-1 U.S.T.C. ¶9394 (3rd Cir. 1941), officers or shareholders were found to have realized additional compensation from the personal use by them and their families of a residence and a lodge owned by the corporation.

In addition to the cases set forth above, there are a number of other cases holding that taxable income was created, without identifying the income as to whether it was a constructive dividend or compensation.¹⁶

There is also the question of whether taxable income can be attributed to an employee for the use of the employer's facilities or services by his friends or family members. This question in a sense involves the doctrine of constructive receipt, but not in the traditional sense, since we are not concerned with the question of when income is taxable, but with the question of who should be taxed on the economic benefit.

With respect to this issue, the authorities recognize it is not necessary that the individual taxpayer himself receive the direct benefit of the use of the facility or the payment of the expenses by the employer. For example, the Internal Revenue Service has held in Rev. Rul. 69-104, 1969-1 Cum. Bull. 33, that where payments are made to dependents of a corporation's former employees who are in the U.S. Armed Forces, the payments are taxable as constructively received

⁸ *United Aniline Co. v. Commissioner*, 316 F. 2d 701, 63-1 U.S.T.C. ¶9434 (1st Cir. 1963); *Challenge Mfg. Co. v. Commissioner*, 37 T.C. 650 (1962). In *United Aniline* the court also questioned the propriety of the *Roach* decision, *supra*.

⁹ *Lang Chevrolet Co. v. Commissioner*, 26 T.C.M. 1054 (1967); *Trippeer v. U.S.*, 67-2 U.S.T.C. ¶9537 (D.C. Tenu. 1967).

¹⁰ *Estate of Law v. Commissioner*, 23 T.C.M. 1554 (1964).

¹¹ *Robert R. Walker, Inc. v. Commissioner*, 326 F. 2d 140, 66-1 U.S.T.C. ¶9426 (7th Cir. 1966), *aff'g* 24 T.C.M. 140 (1965).

¹² *Greenspon v. Commissioner*, 23 T.C. 138 (1954), *aff'd* on this issue, 229 F. 2d 947, 56-1 U.S.T.C. ¶9249 (8th Cir. 1956).

¹³ *Robert R. Walker, Inc. v. Commissioner*, *supra*, note 11; *Coors v. Commissioner*, 60 T.C. 368 (1973).

¹⁴ *Paramount-Richard Theatres, Inc. v. Commissioner*, 153 F. 2d 602, 46-1 U.S.T.C. ¶9170 (5th Cir. 1946).

¹⁵ *Alabama-Georgia Syrup Co. v. Commissioner*, 36 T.C. 747 (1961) *rev'd* on other grounds, 311 F. 2d 640, 63-1 U.S.T.C. ¶9124 (5th Cir. 1962); *Robert R. Walker, Inc.*, *supra*, Note 11.

¹⁶ See e.g., *Heyward v. Commissioner*, 36 T.C. 739 (1961), *aff'd* per curiam, 301 F. 2d 307, 61-1 U.S.T.C. ¶9424 (4th Cir. 1962); and *Frucauff v. Commissioner*, 30 B.T.A. 449 (1934); both involving the occupancy of corporate-owned residences.



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taken in payment must be included in income." Regs. § 1.61-2(d). Generally, where compensation is paid by allowing the taxpayer to enjoy the use of property, courts look to the rental value of the property to determine the amount of the compensation. (See e.g., *Dole v. Commissioner, supra*.)

It is the staff's understanding that the present position of the Internal Revenue Service, where the personal nonbusiness use of corporate aircraft is involved, is to consider that the benefit is measured by the ratio of miles traveled for the personal benefit of the employee to the total miles the corporate aircraft traveled during the taxable year, multiplied by all costs (both operating and fixed) arising from the employer's ownership of the aircraft. In *Cowing v. Commissioner*, 28 T.C.M. 696 (1969), the Internal Revenue Service determined and the Tax Court largely sustained, the disallowance of depreciation and operating expense deductions of the taxpayer-sole proprietor on his aircraft in proportion to the taxpayer's use of the aircraft for personal purposes during the year. In *Hitchcock v. United States*, 63-2 U.S.T.C. ¶ 9756 (D.C.E.D. Wash. 1963), aircraft expenses claimed by a partnership were disallowed on the basis of personal flight hours to total flight hours.

If the fair rental value of the Government aircraft were to be used here to measure the income to the President, it would result in a significantly higher figure than the first class commercial fare basis which has been used by the President in reimbursing the Government for part of the personal excursion flights of his family. For example, the staff has been informed that the present charter rates for a Jet Star executive jet aircraft are generally in the range of \$1.70 per mile or \$1,000 per flight hour. If current Service practice is followed and operating and fixed expenses are used, a slightly lower figure will result, about \$1.50 per mile or \$900 per flight hour for the typical annual hours of use for such aircraft.¹⁷ This compares to current costs of approximately 11 to 17 cents per passenger mile for first class commercial airfare, depending on the trip.¹⁸

It is the staff's belief, however, that in order to reach a reasonable and equitable measure of the benefit to the President, it is necessary to consider the reason Government aircraft were used to transport the President's family and friends. Because of security precautions, such as the risk of hijacking, the Secret Service recommends that these individuals not travel on commercial scheduled airlines. But for these considerations the family and friends could have travelled on commercial airlines. In recognition of these circumstances, the staff believes that the appropriate measure of the President's economic benefit is the cost of first class commercial fares for the trips provided by Government aircraft, rather than charter rates or the costs of the use of the aircraft.

¹⁷ The flight speed of a Jet Star is in the range of 550-600 miles per hour. For purposes of these computations, 600 miles per hour has been used.

¹⁸ In making this estimate, commercial air fare on two typical Nixon family trips was used. According to the *Official Airline Guide*, the April 1, 1974 first class air fare from Washington, D.C. to Miami (a distance of 920 miles) was \$102.64, including tax, or about 11 cents per passenger mile. On a trip from Washington, D.C. to New York, New York, the April 1, 1974 first class air fare was \$36.64 (including tax) for a trip of 215 miles, or about 17 cents per passenger mile.

The staff believes that the President's family and him for income tax purposes. A legal analysis presented a question of tax treatment of Government airplanes is policy in the past. In this has made no examination reported personal use of

One question involves inclusion in income of own use of Government as primarily personal. He spends a significant is also pointed out that must hold himself available because of this character the uncertain status of recommending that any amount personal transportation of tion, the staff is not sure issue in the future.

The staff believes, however, benefit and that an amount to tax with respect to the family and personal friends presented above presents at least insofar as the President himself recognizes him from these flights since that effective April 1, 1974 was followed until March reimbursing the Government and their friends for a period of the travel is for political charges for the family's April 1 and November Re-elect the President. The President's counsel, H. Chapin to an Internal Revenue confirmation of the payment Re-Elect the President. Special Assistant to the President's direction to pay their friends is as follows-



Staff Conclusion

The staff believes that the personal use of Government airplanes by the President's family and friends should be classified as income to him for income tax purposes. The basis for this view is set forth in the legal analysis presented above. The staff recognizes, however, that the question of tax treatment to the President for the personal use of Government airplanes is a matter on which there has been no clear policy in the past. In this regard, it should also be stated that the staff has made no examination as to the way in which prior Presidents have reported personal use of Government airplanes for tax purposes.

One question involves the issue of whether there should be an inclusion in income of any amount with respect to the President's own use of Government aircraft. Some of his use could be classified as primarily personal since the flights take him to locations where he spends a significant part of his time on vacation. However, it is also pointed out that the President, by the nature of the office, must hold himself available for work at virtually any time. In part because of this characteristic of the Presidency and in part because of the uncertain status of such items in the past, the staff is not recommending that any amounts be included in income with respect to personal transportation of the President. In making this recommendation, the staff is not suggesting that this be foreclosed as a possible issue in the future.

The staff believes, however, that the President does receive economic benefit and that an amount should be included in his income subject to tax with respect to the personal use of Government planes by his family and personal friends. It is believed that the legal analysis presented above presents an adequate basis for this position. Moreover, at least insofar as the children and their friends are concerned, the President himself recognized that a personal benefit accrued to him from these flights since he issued a directive as of May 4, 1971, that effective April 1, 1971, such travel be billed to him. This policy was followed until March 31, 1972, when the President stopped reimbursing the Government for personal flights of his children and their friends for a period of time. He began again after the November elections. In this interval it appears that much (although not all) of the travel is for political purposes. The staff has been informed that charges for the family's personal use during the period between April 1 and November 16, 1972, were paid by the Committee to Re-elect the President. This information was provided by the President's counsel, H. Chapman Rose, in a letter dated March 11, 1974, to an Internal Revenue Service agent which indicated that the confirmation of the payment of these charges by the Committee to Re-Elect the President was obtained from Mr. Bruce A. Kehrl, Special Assistant to the President. The memorandum indicating the President's direction to pay personal travel costs of his children and their friends is as follows:



MEMORANDUM

THE WHITE HOUSE
WASHINGTON

May 4, 1971

MEMORANDUM FOR CARSON HOWELL
THRU: JIGGS FAUVER

Recently the President directed that he be billed for travel on government aircraft by Tricia, Ed Cox and Julie and David Eisenhower when they travel in other than an official capacity beginning on 1 April 1971. I have enclosed the travel for April.

Jiggs, would you please figure the appropriate amount and forward to Carson Howell for payment.

Carson, if you will please send the check to me I will forward it to the United States Air Force.

Bill Gulley
BILL GULLEY

Attachment

While the staff believe the President's family and party in the President's income should be recommended to the extent of the March 31, 1972 and again for this travel.

Early in its examination counsel that it be supplied to the President and his family only for flights where the President was not along appears that in some respects flights. (For example, the bursements, made some of Mrs. Nixon's trips, the staff the manifests of the flights. The staff was told that it was requested in a letter to the committee. Such a letter was sent's counsel responded that this information was reasons. The response is that the staff has also requested with respect to material which were official and which were been supplied.

As is indicated in the procedure corporate executives when the procedure is to charge for that current charter flights are generally in the range of an hour or, alternatively, if operating such a jet aircraft. The staff, however, believe that because of the need for the President (and perhaps the appropriate mode of travel. For the usual procedure with respect to the value of the equipment operating the aircraft, that to base the value upon the cost. This is a cost of approximately \$100,000.

Another issue involved the President should include the cost along on the trip. It has been a fact that it is necessary for there be no charge for members accompanying him on the plane for the travel required for the use of the aircraft on occasion in determining of airplane travel by the President, friends or family members on the basis that the President is

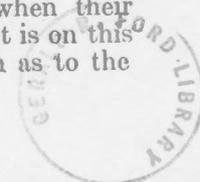


While the staff believes that flights involving members of the President's family and personal friends should result in an inclusion in the President's income subject to tax, this would not be recommended to the extent the President (from April 1, 1971 through March 31, 1972 and again after November 16, 1972) personally paid for this travel.

Early in its examination the staff requested through the President's counsel that it be supplied with the manifests of all flights by the President and his family. The staff has been supplied with manifests only for flights where family members were passengers and the President was not along. In addition, from the staff examination it appears that in some respects the manifests do not report all of the flights. (For example, the President, during the period he made reimbursements, made some payments for flights not listed in the manifests.) Upon receiving the manifests involving only the children's and Mrs. Nixon's trips, the staff requested again that it be supplied with the manifests of the flights where the President was along on the trip. The staff was told that it could not have such information unless this was requested in a letter signed by the Chairman of the Joint Committee. Such a letter was sent to the President's counsel. The President's counsel responded to Chairman Long's letter on April 1, 1974, that this information would not be furnished and indicated the reasons. The response is shown in the Appendix in Exhibit XII-3. The staff has also requested an indication as to which flights (both with respect to material received and material it has not received) were official and which were personal. This information also has not been supplied.

As is indicated in the legal analysis presented above, in the case of corporate executives where a flight is considered personal the usual procedure is to charge for the cost of the flight. It was also noted that current charter flight rates for Jet Star executive jet aircraft are generally in the range of about \$1.70 per mile or \$1,000 per flight hour or, alternatively, if based only upon the expenses involved in operating such a jet aircraft, about \$1.50 per mile or \$900 per flight hour. The staff, however, agrees with views which have been expressed that because of the need to safeguard the President, commercial flights for the President (and perhaps for members of his family) are an inappropriate mode of travel. Because of this the staff believes, even though the usual procedure with respect to corporate executives is to determine the value of the economic benefit on the basis of the cost of operating the aircraft, that it would be more appropriate in this case to base the value upon the charge for first class commercial fare. This is a cost of approximately 11 to 17 cents per passenger mile.

Another issue involved is whether the income imputed to the President should include only those cases where the President was not along on the trip. It has been argued that if a trip is required by the fact that it is necessary for the President to travel, then there should be no charge for members of his family and personal friends accompanying him on the plane since they would not be on the flight but for the travel required for the President. This type of analysis has been used on occasion in determining whether income is realized in the case of airplane travel by corporate executives on business when their friends or family members accompany them. Presumably, it is on this basis that the President has refused to supply information as to the



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flights where the President was a passenger. However, the staff believes this type of analysis is not appropriate when all that is being treated as income is the cost of the first class fare of the individuals involved. In addition, generally where a family member accompanies an employee on a business trip, the presence of the family member must be shown to serve a business purpose for his or her expenses to be deductible.

In determining the economic benefit in the case of the flights shown on the manifests supplied to the staff (those where members of the family were not accompanied by the President), the staff made the computation of the flight costs at the standard first class fare applicable to each flight, using the rates in effect at the time the flights were taken.¹⁹ Because Government air bases were used for landing and take-off in numerous cases, an approximation of fare charges had to be made by using the flight costs to the nearest commercial airport. Also, in some cases where there were numerous stops or no comparable commercial flight between the same series of points it was impossible to make an exact determination of fare charges by using commercial fare schedules. In such cases the staff made the computations from the commercial schedules on the basis of either the furthest point to which there was direct flight service or the beginning and ending points for the trip. In addition, in numerous cases it apparently was necessary to arrange either to have an "empty" plane flown to meet the persons involved at their departure point or to leave them at their destination point and the plane return "empty" to its base. No attempt was made to include any charges for these "empty" plane flights. Although the manifests do not indicate all such flights, they do disclose that at a minimum such flights were necessitated 175 times during the period under review.

The manifest lists do not generally indicate whether the persons on the flights were Executive Department employees officially accompanying the President's family as one of the duties of their position or whether they were personal friends of the family. The staff in computing the fare charges has attempted to take into account only those flights involving family members or personal friends (or personal employees) of the family, and not others.

Computations of fare charges were made with respect to all of the flights involving members of the President's personal family and friends (on flights in which they were not accompanied by the President). Subsequently these amounts were reduced for reimbursements made by the President (between April 1, 1971 and March 31, 1972 and again after November 16, 1972).

Although the staff was not supplied with information as to which of the flights were personal and which were official, it made a breakdown on the basis of the best judgment it could apply. For example, it classified as official flights those which involved relatively brief stops at a number of cities. Also omitted were flights where it was suggested by the passenger lists that it was an official flight. Finally, all foreign flights were omitted.

Based upon the analysis indicated above, the staff found that there were 411 flights covered by the manifests of the flights where family members were not accompanied by the President. Of these, the staff believes that 70 may have been of an official nature,

leaving 341 as personal. At the time the flights were made, they represented a total value of Federal air ticket taxes (on flights). Of this amount, \$6,693, leaving a total of \$11,183.

By tax years the total was:

| | |
|-----------|-------------|
| 1969..... | \$4,001.34 |
| 1970..... | \$9,277.88 |
| 1971..... | \$9,247.88 |
| 1972..... | \$11,183.11 |

The staff believes that the income to the President and the staff is aware that the reimbursements for the personal flights occurred after March 31, 1972. The staff determined that a number of family and their friends were not included in the information that there is either the pre-April 1, 1972 or post-March 31, 1972. The staff also determined that a number of the significant delay (between the present), the staff also should be included in tax.

As indicated above, with respect to flights on which it has not been possible to make an appropriate inclusion in the tax return.

Information is available on President Nixon's trips on work days in 1969 through 1972. These include Florida, San Clemente, California, and Key West. The Camp David trips at weekends and working vacations were less likely to accompany the President. In addition, apparently no helicopter flights are noted on the manifests from Key Biscayne to Key West.

As indicated above, the staff has determined the number of family and personal friends or family members who were not included in the tax return as follows:²¹

¹⁹ The computation of fare costs where the passenger was not a passenger is shown in the appendix.
²¹ The computations of fare costs where the passenger was a passenger is shown in the appendix.

¹⁹ To determine the rates in effect when the flights were taken the staff used the *Official Airline Guide*, published at two-week intervals and computed each flight separately.



leaving 341 as personal. Using the first class air fare in effect at the time the flights were made, staff calculations indicate these flights represented a total value of \$33,708.19 (including \$2,266.47 as the Federal air ticket taxes which would be applicable to first class fare flights). Of this amount, the President has reimbursed the Treasury for \$6,693, leaving a total nonreimbursed figure of \$27,015.19.²⁰

By tax years the total indicated above is as follows:

| | |
|-----------|--|
| 1969..... | \$4,001.45. |
| 1970..... | \$9,275.89. |
| 1971..... | \$9,247.85 less reimbursement by the President of \$4,612, which leaves \$4,635.85. |
| 1972..... | \$11,183.00 less reimbursement by the President of \$2,081 which leaves \$9,102.00. |

The staff believes that these amounts should be treated as taxable income to the President for the years in which the flights occurred. The staff is aware that the President intended to make some reimbursements for the personal use of Government aircraft which occurred after March 31, 1971. In the staff's examination of the manifests and the reimbursements made by the President with respect to the personal use of the aircraft after March 31, 1971, the staff determined that a number of personal trips made by the President's family and their friends were not reimbursed. Since the staff has no information that there is an intention to make reimbursements for either the pre-April 1, 1971, personal use flights or the as-yet-unreimbursed post-March 31, 1971, personal use flights (particularly in light of the significant delay between the times the flights occurred and the present), the staff also believes that the charges for these flights should be included in taxable income.

As indicated above, manifests were not supplied to the staff with respect to flights on which the President was a passenger. Therefore, it has not been possible for the staff to make any determination as to an appropriate inclusion in income with respect to these flights.

Information is available, however, as to air travel involving President Nixon's trips on working vacations and weekends in each of the years 1969 through 1972. This includes primarily trips to Key Biscayne, Florida, San Clemente, California, and trips designated as private family trips. This does not include trips to Camp David (119 trips listed) or trips from Key Biscayne to the Bahamas (16 trips listed). The Camp David trips apparently were a mixture of working weekends and working vacations where presumably family and friends were less likely to accompany the President than in the other cases. In addition, apparently most of these trips were by helicopter, and helicopter flights are not included in computations shown here. The flights from Key Biscayne to the Bahamas also presumably were by helicopter.

As indicated above, the staff has not been supplied any information as to the number of family or friends on board these flights. If 2 or 3 personal friends or family members accompanied the President the charges (not including any charge for the President's fare) would be as follows:²¹

²⁰ The computation of fare costs on a flight-by-flight basis for those where the President was not a passenger is shown in the appendix (Exhibit VI-1).

²¹ The computations of fare costs on a flight-by-flight basis for those where the President was a passenger is shown in the appendix (Exhibit VI-2).



| Year | Value 2-person assumption | Value 3-person assumption |
|-------------------|---------------------------------|---------------------------------|
| 1969..... | \$5,186.00 | \$7,779.00 |
| 1970..... | 5,835.50 | 8,643.00 |
| 1971..... | 8,822.00 | 12,924.00 |
| 1972..... | 5,524.00 | 8,184.00 |
| 4-year total..... | 25,367.50 | 37,530.00 |

It should be emphasized that the staff is not recommending to the committee any inclusion in income of the amounts shown above, since it has not been supplied with adequate information to make any appropriate estimates. This information is supplied merely to inform the committee as to the approximate amounts which could be involved.

PART S

EXPENDITURES OF FEDERAL
NIXON'S PROPERTIES AT
CLEMENTE

1. Scope of E

After his election as President of the United States, Nixon acquired properties at Key Biscayne, Florida, and California. First, on December 19, 1969, he acquired residences located at 500 and 516 B Street, San Clemente, California. Then on July 15, 1969, he purchased a residence known as "Cotton estate" in San Clemente, California. Finally, he purchased a small additional property in San Clemente, California.

As a result of the use of these properties during his first term in office, substantial expenditures were incurred by the Federal Government. The authority for these expenditures is set forth in two different statutory provisions. The first provision requires the General Services Administration to provide services and administrative support to the President. The statutory authority for these expenditures has three different sources.¹ The second provision requires the Secret Service to provide protection (for the President and other individuals) by the Secret Service. The President in this regard also directs other Federal agencies to assist the Secret Service in the performance of its duties upon request.

The General Services Administration and other Federal Government agencies have spent substantial amounts on the President's properties at Key Biscayne, Florida, and San Clemente, California. In the past few months, numerous questions have been raised as to whether expenditures were protective or non-protective or not the applicable laws have been violated. A thorough review of the expenditures at Key Biscayne and San Clemente was made by the House Select Committee on Operations and Administration. In addition, congressional hearings were held by the House Operations Subcommittee of the House Select Committee on Operations.

The Government Activities Subcommittee of the House Select Committee on Operations reported its expenditure of Federal funds in support of the President's properties on October 10, 11, 12, and 15, 1973.

¹ The Federal Property and Administrative Services Act of 1950, as amended (40 U.S.C. 601-615 and 490 note).

² 18 U.S.C. 3056; Pub. L. 90-331, June 6, 1968, 82 Stat.

³ This does not include those expenditures to construct Government property adjoining the President's San Clemente estate estimated to be \$6 million.



August 31, 1974

MEMORANDUM FOR: General Haig
FROM: Phil Buchen
**SUBJECT: Travel of the President, his Family
and Friends on Military Aircraft**

J. Fred Bushardt mentioned to me a matter raised with you by the Military Assistant concerning travel by the President, his family, and friends in military aircraft. For the Vice President, I made some investigation of the tax consequences of furnished transportation. Therefore, I would like to have a copy of any proposed recommendation in this regard.

PWBuchen:ed



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PWBuchen:ed



Gifts

THE WHITE HOUSE
WASHINGTON

Ken LAZARUS:

Please call me about
comments you suggest
I make.

Note the Scowcroft
memo relates only to
giving (not receiving)
gifts. I feel that
both would have to be
restricted as Catto
suggests.

R.



27B
11/2
MEMORANDUM

NATIONAL SECURITY COUNCIL

4802

November 5, 1974

MEMORANDUM FOR MR. BUCHEN

FROM: Jeanne W. Davis *JWD*

SUBJECT: Presidential Initiative on Gifts

The Chief of Protocol has suggested that the President abandon the practice of giving valuable gifts to foreign leaders. Before we go forward to Ambassador Rumsfeld, we would appreciate your clearance and/or comments on the attached recommendation.



DRAFT

MEMO FOR AMB. RUMSFELD

FROM: Brent Scowcroft

SUBJECT: Presidential Initiative on Gifts

The NSC concurs in the suggestion by the Chief of Protocol that the President consider discontinuing the current practice of giving valuable gifts to Heads of State and Government on the occasion of Official Visits to the US. We believe, however, that an exception should be made for specific occasions in which the United States might wish to give an appropriate gift to a foreign dignitary for a wedding, birth, or other significant event. As has been past practice, a decision on sending such a gift would be made on a case by case basis.

If the President approves the elimination of the exchange of valuable gifts, the NSC proposes that State immediately instruct all U. S. diplomatic posts of the President's wishes. At the same time, Cabinet members could be advised accordingly so that they will conform to the President's wishes. We do not believe a Presidential statement would be necessary or desirable since it might revive the recent publicity over gifts which have been exchanged in the past. However, we would defer to the domestic side on the advantages which might be derived from such a statement.



THE CHIEF OF PROTOCOL
DEPARTMENT OF STATE
WASHINGTON

October 9, 1974

~~CONFIDENTIAL~~

MEMORANDUM FOR MR. DONALD RUMSFELD
ASSISTANT TO THE PRESIDENT
THE WHITE HOUSE

SUBJECT: PRESIDENTIAL INITIATIVE ON GIFTS

I believe that President Ford's recent assumption of office, constitutional intent, inflation, and recent controversy concerning gifts may make an initiative on this problem appropriate at this time.

In order to solve the difficulties connected with gift-giving and receiving, President Ford might consider abandoning the practice of giving valuable gifts to heads of state and prohibit all government officials from doing the same. A photograph or collection of photographs should be sufficient to commemorate the visit by a head of state. Similarly, dinners and other events during state visits constitute appropriate marks of our respect for other countries and officials.

Were the President to announce his intention not to give or receive valuable gifts, other governments and heads of state might adopt the same policy; a practice which has caused problems for previous Presidents would be abandoned; and the President's reputation for both thrift and lack of ostentation would be enhanced.

A possible Presidential statement is enclosed.


Henry E. Catto, Jr.

Enclosure:
As stated

DECLASSIFIED

E.O. 12958, Sec. 3.5

State Dept. Guidelines

By W/HTM, NARA, Date 5/5/00

~~CONFIDENTIAL~~



STATEMENT BY THE PRESIDENT

I have only recently become aware of the extent and character of the exchange of gifts on the occasion of state visits and between governments generally. It will be the practice of my Administration to discourage the exchange of gifts of significant value on any and all occasions.

I believe firmly that the Framers of our Constitution included in Section 9 of Article I, a clear and valid prohibition against the exchange of valuable gifts. Congress in 1966 codified this provision in the Presidential Gifts and Decorations Act and I intend to abide by the spirit and intent of our Constitution and our laws.

I am today issuing instructions to the Cabinet on this matter so that this policy can be carried out throughout the Government. I will also ask our Ambassadors to convey to foreign governments my feelings in this matter.



Wednesday 9/25/74

10:50 Bill Whitsitt in Cong. Melcher's office called requesting information on the use of military aircraft by the former President's family.

225-1555

Checked with Gen. Haig's office; they suggested calling the Military Aide's Office. Mr. Cuff advises that Bill Gulley, Executive Assistant to the Military Assistant to the President, is the resident expert on that.

Called Sgt. Collins in Gulley's office and asked him to ask Bill Gulley to call Bill Whitsitt as soon as possible. He will give him the message -- Mr. Gulley is with the General at the moment.

I called back to advise Mr. Whitsitt that Mr. Gulley would be calling him.



Eva - file

"First Family
Transpotation"



THE WHITE HOUSE
WASHINGTON

Military
aircraft
for
President

Put in "back-burner"
file



August 31, 1974

MEMORANDUM FOR: General Haig
FROM: Phil Buchen
SUBJECT: Travel of the President, his Family
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PWBuchen:ed



gave Casselman
a cig

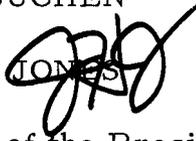
THE WHITE HOUSE
WASHINGTON

September 6, 1974

MEMORANDUM FOR:

PHIL BUCHEN

FROM:

JERRY JONES 

SUBJECT:

Travel of the President, his
Family, and Friends on Military
Aircraft

General Haig has asked that I send you the attached report in accordance with your request of August 31st.

Attachment



THE WHITE HOUSE

WASHINGTON

August 30, 1974

MEMORANDUM FOR: GENERAL ALEXANDER M. HAIG

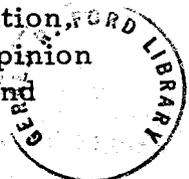
FROM: J. FRED BUZHARDT *JB*

SUBJECT: Travel of the President, his Family and Friends on Military Aircraft, and the Memorandum to You From the Military Assistant dated August 23, 1974

The memorandum from the Military Assistant is accurate as to the staff report of the Joint Committee on Internal Revenue Taxation except for the matters set forth in paragraph b. "First Family Members." The staff report recommended that the personal use of government aircraft by the President's family and friends should result in income attributable to the President, but no such recommendation was made with respect to trips by the President's family and friends for official purposes. The staff took a practical view of what constituted "official" use, but, in effect, placed the burden on the President to establish that any given trip by the family was official.

Accordingly, it would appear that the practice of President Nixon to reimburse the Government for family members' personal trips unaccompanied by the President aboard military aircraft at first class commercial rates was acceptable, and no assessment would have occurred had the records adequately reflected the precise purpose of each of the trips.

The staff report indicates that the same rule, in the staffs' opinion, should be applied where family members and personal friends accompany the President aboard Air Force One. Opinions expressed orally by individual members indicated this would be going too far, and the Internal Revenue Service did not assert such a position, although the Internal Revenue Service did follow the staff opinion with respect to unaccompanied travel by family members and personal friends.



A copy of the relevant portion of the staff report of the Joint Committee on Internal Revenue Taxation is attached.



PART SIX

PERSONAL USE OF GOVERNMENT AIRCRAFT BY THE PRESIDENT'S FAMILY AND FRIENDS

1. Scope of Examination

Since the President took office in 1969, members of his family and their friends, unaccompanied by him in many instances, have travelled extensively in the United States on Government aircraft. It appears that some of these flights were in connection with the performance of official duties, such as standing in for the President in his absence. This seems to be particularly true for many of the trips by Mrs. Nixon.

A question has been raised whether, for flights which were not primarily official business and, therefore, personal, the cost of such unreimbursed Government-furnished transportation should be considered additional income to the President.

Flights that appear to be personal are particularly those taken by Julie and Tricia to join either David Eisenhower or Edward Cox while the latter were either students or stationed in various cities other than Washington, D.C. On several occasions both Edward Cox and David Eisenhower joined Julie and Tricia on flights to and from these same cities and to and from the President's homes in either Key Biscayne, Florida, or San Clemente, California. Occasionally, members of the President's family took along friends or guests on these flights.

Effective April 1, 1971, the President adopted a policy of reimbursing the Treasury for flights of his daughters and their husbands (or husband to be in the case of Edward Cox) when such travel was in "other than an official capacity." In doing so, the President apparently decided that there was in fact personal travel by members of his family in Government-furnished aircraft and that it was possible to make a determination as to what was personal and what was official. However, this policy was not in operation for the entire period during which members of the President's family and their friends availed themselves of Government air transportation. In addition, it does not appear that reimbursements were made for all "personal" flights after April 1, 1971.

During the course of its examination of the President's tax returns, the staff made an estimate of the amount of personal travel by members of the President's immediate family and their guests on Government planes over the four-year period under review, 1969-1972. The staff requested flight manifests from the White House for flights taken on Government aircraft by members of the President's family. The White House transmitted flight manifests for 1969-1972 for air travel of members of his family (and friends and guests that accompanied his family) when they traveled without the President.



1954 Code) "is broad enough to include in taxable income any economic or financial benefit conferred on the employee as compensation, whatever the form or mode by which it is effected."

The issues presented here are to an extent unique, since there is no public record of prior determinations of tax consequences in a situation of this type. It is possible however to approach these questions in light of the employment relationship which exists between the U.S. Government and the President and to examine the authorities in the general area of benefits flowing between the employer and employee. The staff also considers the many decisions involving the corporation-shareholder relationship to have an application to this area of the examination.

The apparent proliferation in the use of corporate-owned assets for the personal use of employees and shareholders as a device to provide tax-free fringe benefits or constructive dividends has received increased attention by the Service in recent years. However, there is not presently an announced uniform official policy on the general issue, probably because of the diverse types of benefits available, contrasting applicable tax theories, and the enforcement problems inherent in this area.

In the early history of the Federal income tax it was the apparent policy of the Internal Revenue Service and the courts to consider that an employee or shareholder realized income from the free or bargain rate use of corporate assets or services only where there was a measurable direct economic benefit arising from the employment or shareholder relationship. In *Hillman v. Commissioner*, 71 F. 2d 688, 1934 CCH ¶9325 (3rd Cir. 1934), it was held that a shareholder's rent-free use of a residence which he had contributed to a family-owned corporation was not income to the individual shareholder. This decision was followed by the Fifth Circuit in *Richards v. Commissioner*, 111 F. 2d 376, 40-1 U.S.T.C. ¶9373 (5th Cir. 1940), on a similar fact situation. In 1941, the Third Circuit then reversed its earlier rule in *Hillman* and criticized the *Richards* decision in holding that an officer-shareholder did realize taxable income for the use of corporate-owned living quarters. *Chandler v. Commissioner*, 119 F. 2d 623, 41-1 U.S.T.C. ¶9393 (3rd Cir. 1941). Yet, the Fifth Circuit subsequently followed its *Richards* decision in *Peacock v. Commissioner*, 256 F. 2d 160, 58-2 U.S.T.C. ¶9603 (5th Cir. 1958), again involving the use of a corporation-owned residence. In *Roach v. Commissioner*, 20 B.T.A. 919 (1930), Nonacq. X-1 Cum. Bull. 91, it was held that the personal use of a corporate yacht by family members of the controlling shareholder did not create taxable income to the shareholder. In O.D. 946, 4 Cum. Bull. 110 (1921), it was held that personal transportation passes issued by a railroad company to its employees and their families, to be used when not engaged in company business and not provided under employment contracts, were gifts and not taxable income to the employees. O.D. 946 has not been cited in any other published decision or policy announcement. The staff also considers it to have questionable present application since it is inconsistent with the position the Service has taken with regard to other economic benefits to employees or shareholders and their families.

More recently the Internal Revenue Service has contended successfully that a shareholder's use of a wide range of corporate assets resulted in income to the shareholder. The courts have held that constructive dividends were realized from the shareholder's personal use of



a corporate owned yacht,⁸ an automobile,⁹ supplies and materials,¹⁰ and a lake house.¹¹ Constructive dividends have also been found to result to the shareholder by corporation payments of the shareholder's home expenses,¹² club expenses,¹³ life insurance policy premiums,¹⁴ and travel expenses.¹⁵

The court decisions have not been confined to constructive dividend results, but have also found that compensation income resulted from the personal use of corporate facilities or from corporate payments for personal purposes of the individual taxpayer. In *Rodgers Dairy Co. v. Commissioner*, 14 T.C. 66 (1950), an officer's use of a corporate automobile was taxed to the officer as compensation. See also, *Dole v. Commissioner*, 43 T.C. 697 (1965), *aff'd per curiam*, 351 F. 2d 308, 65-2 U.S.T.C. ¶9688 (1st Cir. 1965). In *Silverman v. Commissioner*, 253 F. 2d 849, 58-1 U.S.T.C. ¶9433 (8th Cir. 1958), *aff'g*, 28 T.C. 1061 (1957), a corporation's payment of travel expenses for the wife of an employee, who accompanied the employee on a business trip, was also found to result in additional compensation to the employee. In *Dean v. Commissioner*, 9 T.C. 256 (1947), and *Chandler v. Commissioner*, 41 B.T.A. 165 (1940), *aff'd*, 119 F. 2d 623, 41-1 U.S.T.C. ¶9394 (3rd Cir. 1941), officers or shareholders were found to have realized additional compensation from the personal use by them and their families of a residence and a lodge owned by the corporation.

In addition to the cases set forth above, there are a number of other cases holding that taxable income was created, without identifying the income as to whether it was a constructive dividend or compensation.¹⁶

There is also the question of whether taxable income can be attributed to an employee for the use of the employer's facilities or services by his friends or family members. This question in a sense involves the doctrine of constructive receipt, but not in the traditional sense, since we are not concerned with the question of when income is taxable, but with the question of who should be taxed on the economic benefit.

With respect to this issue, the authorities recognize it is not necessary that the individual taxpayer himself receive the direct benefit of the use of the facility or the payment of the expenses by the employer. For example, the Internal Revenue Service has held in Rev. Rul. 69-104, 1969-1 Cum. Bull. 33, that where payments are made to dependents of a corporation's former employees who are in the U.S. Armed Forces, the payments are taxable as constructively received

⁸ *United Aniline Co. v. Commissioner*, 316 F. 2d 701, 63-1 U.S.T.C. ¶9434 (1st Cir. 1963); *Challenge Mfg. Co. v. Commissioner*, 37 T.C. 650 (1962). In *United Aniline* the court also questioned the propriety of the *Roach* decision, *supra*.

⁹ *Lang Chevrolet Co. v. Commissioner*, 26 T.C.M. 1054 (1967); *Trippeer v. U.S.*, 67-2 U.S.T.C. ¶9537 (D.C. Tenn. 1967).

¹⁰ *Estate of Law v. Commissioner*, 23 T.C.M. 1554 (1964).

¹¹ *Robert R. Walker, Inc. v. Commissioner*, 326 F. 2d 140, 66-1 U.S.T.C. ¶9426 (7th Cir. 1966), *aff'g* 24 T.C.M. 140 (1965).

¹² *Greenspan v. Commissioner*, 23 T.C. 138 (1954), *aff'd on this issue*, 229 F. 2d 947, 56-1 U.S.T.C. ¶9249 (8th Cir. 1956).

¹³ *Robert R. Walker, Inc. v. Commissioner*, *supra*, note 11; *Coors v. Commissioner*, 60 T.C. 368 (1973).

¹⁴ *Paramount-Richard Theatres, Inc. v. Commissioner*, 153 F. 2d 602, 46-1 U.S.T.C. ¶9170 (5th Cir. 1946).

¹⁵ *Alabama-Georgia Syrup Co. v. Commissioner*, 36 T.C. 747 (1961) *rev'd on other grounds*, 311 F. 2d 640, 63-1 U.S.T.C. ¶9124 (5th Cir. 1962); *Robert R. Walker, Inc.*, *supra*, Note 11.

¹⁶ See e.g., *Heyward v. Commissioner*, 36 T.C. 739 (1961), *aff'd per curiam*, 301 F. 2d 307, 61-1 U.S.T.C. ¶9424 (4th Cir. 1962); and *Frucauff v. Commissioner*, 30 B.T.A. 449 (1934); both involving the occupancy of corporate-owned residences.



by the
Silverman

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Measure

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by the former employees. In the context of travel expenses, in the *Silverman* case, cited *supra*, the Tax Court remarked:

It is also well settled that where funds of a corporation are disbursed for the personal use or economic benefit of a stockholder or his immediate family, there being no intention of repayment, the amounts so disbursed are either the equivalent of corporate distributions or additional compensation for services (depending upon the facts and circumstances), especially in the case of dealings between closely held corporations and their stockholders. (Citations omitted.) 28 T.C. 1061, 1064.

Here the payments for the transportation expenses of the spouse were considered to be income to the husband. See also *Alabama-Georgia Syrup Co.*, *supra* (wife's travel expenses were a dividend to the husband). In *United States v. Gotcher*, 401 F. 2d 118, 68-2 U.S.T.C. ¶ 9546 (5th Cir. 1968), the taxpayer was held to have realized income through a supplier's payment of his wife's travel expenses on a trip to tour the supplier's plant. The basis for the attribution of income to the taxpayer was that the supplier's payments had relieved him of the financial responsibility for the wife's expenses.

It is, of course, obvious that if a taxpayer entertains or benefits his friends by use of his employer's property, this does not change the result that the use is income to the taxpayer, any more than the taxpayer would be entitled to a deduction if he took part of his salary and rented comparable facilities for the benefit of his friends.

The rules set forth in the *Silverman* case have recently been applied by the Tax Court to include economic benefits received by individuals who were not family members of the taxpayer. In *Bauer v. Commissioner*, 32 T.C.M. 496 (1973), the employer's payment of air fare to Japan for the taxpayer's woman companion and her two children was held to be compensation income to the taxpayer. The court reasoned that when the air fare was paid by the employer it "was done because of the employment relationship" and the taxpayer was "relieved of what would otherwise have been a personal expense." The court concluded that "it is of no consequence that those provided with air fare were not members of his household" and therefore that the "fair market value" of the air fare was includible in the taxpayer's income.

It is apparent that Mrs. Nixon, the President's daughters, and the friends of the Nixon family have enjoyed the personal use of the Presidential aircraft only because of the employment relationship between the President and the United States. It is, therefore, the belief of the staff that the President has realized taxable income where members of his family or his friends had free use of Government transportation for personal excursions or where it has not been established that they were on Government business. The staff also considers this to be equally applicable where the President's family and/or friends accompanied him on trips which for him were in performance of the official duties of the President, but for which there is no evidence that the family and/or friends performed any official functions.

Measure of Income

Where it is determined that an employee has received compensation other than in money, "the fair market value of the property or services



taken in payment must be included in income." Regs. § 1.61-2(d). Generally, where compensation is paid by allowing the taxpayer to enjoy the use of property, courts look to the rental value of the property to determine the amount of the compensation. (See e.g., *Dole v. Commissioner, supra*.)

It is the staff's understanding that the present position of the Internal Revenue Service, where the personal nonbusiness use of corporate aircraft is involved, is to consider that the benefit is measured by the ratio of miles traveled for the personal benefit of the employee to the total miles the corporate aircraft traveled during the taxable year, multiplied by all costs (both operating and fixed) arising from the employer's ownership of the aircraft. In *Cowing v. Commissioner*, 28 T.C.M. 696 (1969), the Internal Revenue Service determined and the Tax Court largely sustained, the disallowance of depreciation and operating expense deductions of the taxpayer-sole proprietor on his aircraft in proportion to the taxpayer's use of the aircraft for personal purposes during the year. In *Hitchcock v. United States*, 63-2 U.S.T.C. ¶ 9756 (D.C.E.D. Wash. 1963), aircraft expenses claimed by a partnership were disallowed on the basis of personal flight hours to total flight hours.

If the fair rental value of the Government aircraft were to be used here to measure the income to the President, it would result in a significantly higher figure than the first class commercial fare basis which has been used by the President in reimbursing the Government for part of the personal excursion flights of his family. For example, the staff has been informed that the present charter rates for a Jet Star executive jet aircraft are generally in the range of \$1.70 per mile or \$1,000 per flight hour. If current Service practice is followed and operating and fixed expenses are used, a slightly lower figure will result, about \$1.50 per mile or \$900 per flight hour for the typical annual hours of use for such aircraft.¹⁷ This compares to current costs of approximately 11 to 17 cents per passenger mile for first class commercial airfare, depending on the trip.¹⁸

It is the staff's belief, however, that in order to reach a reasonable and equitable measure of the benefit to the President, it is necessary to consider the reason Government aircraft were used to transport the President's family and friends. Because of security precautions, such as the risk of hijacking, the Secret Service recommends that these individuals not travel on commercial scheduled airlines. But for these considerations the family and friends could have travelled on commercial airlines. In recognition of these circumstances, the staff believes that the appropriate measure of the President's economic benefit is the cost of first class commercial fares for the trips provided by Government aircraft, rather than charter rates or the costs of the use of the aircraft.

¹⁷ The flight speed of a Jet Star is in the range of 550-600 miles per hour. For purposes of these computations, 600 miles per hour has been used.

¹⁸ In making this estimate, commercial air fare on two typical Nixon family trips was used. According to the *Official Airline Guide*, the April 1, 1974 first class air fare from Washington, D.C. to Miami (a distance of 920 miles) was \$102.64, including tax, or about 11 cents per passenger mile. On a trip from Washington, D.C. to New York, New York, the April 1, 1974 first class air fare was \$36.64 (including tax) for a trip of 215 miles, or about 17 cents per passenger mile.

The staff believes that the President's family and him for income tax purposes. The legal analysis presented the question of tax treatment of Government airplanes is a policy in the past. In the past, the staff has made no examination of reported personal use of Government aircraft.

One question involves the inclusion in income of the President's own use of Government aircraft as primarily personal. The staff believes that he spends a significant amount of time on such use. It is also pointed out that the President must hold himself available at all times because of this character of his duties. The staff is recommending that any amount of personal transportation reimbursement, the staff is not sure of the issue in the future.

The staff believes, however, that the President's benefit and that an amount of tax with respect to the President's family and personal expenses presented above presents a significant issue at least insofar as the President himself receives reimbursement from these flights. The staff believes that effective April 1, 1974, that was followed until March 1974, the President was reimbursing the Government for the travel of his family and their friends for a period of time before the November elections. In this instance, the staff believes that the cost of the travel is for political purposes and should be charged for the family and friends for the period April 1 and November 1, 1974. The staff believes that the President should Re-elect the President. The staff believes that the President's counsel, H. Charles Phillips, should confirm the payment of the President's Re-Elect the President. The staff believes that the Special Assistant to the President should confirm the President's direction to the staff that the reimbursement to their friends is as follows:



Staff Conclusion

The staff believes that the personal use of Government airplanes by the President's family and friends should be classified as income to him for income tax purposes. The basis for this view is set forth in the legal analysis presented above. The staff recognizes, however, that the question of tax treatment to the President for the personal use of Government airplanes is a matter on which there has been no clear policy in the past. In this regard, it should also be stated that the staff has made no examination as to the way in which prior Presidents have reported personal use of Government airplanes for tax purposes.

One question involves the issue of whether there should be an inclusion in income of any amount with respect to the President's own use of Government aircraft. Some of his use could be classified as primarily personal since the flights take him to locations where he spends a significant part of his time on vacation. However, it is also pointed out that the President, by the nature of the office, must hold himself available for work at virtually any time. In part because of this characteristic of the Presidency and in part because of the uncertain status of such items in the past, the staff is not recommending that any amounts be included in income with respect to personal transportation of the President. In making this recommendation, the staff is not suggesting that this be foreclosed as a possible issue in the future.

The staff believes, however, that the President does receive economic benefit and that an amount should be included in his income subject to tax with respect to the personal use of Government planes by his family and personal friends. It is believed that the legal analysis presented above presents an adequate basis for this position. Moreover, at least insofar as the children and their friends are concerned, the President himself recognized that a personal benefit accrued to him from these flights since he issued a directive as of May 4, 1971, that effective April 1, 1971, such travel be billed to him. This policy was followed until March 31, 1972, when the President stopped reimbursing the Government for personal flights of his children and their friends for a period of time. He began again after the November elections. In this interval it appears that much (although not all) of the travel is for political purposes. The staff has been informed that charges for the family's personal use during the period between April 1 and November 16, 1972, were paid by the Committee to Re-elect the President. This information was provided by the President's counsel, H. Chapman Rose, in a letter dated March 11, 1974, to an Internal Revenue Service agent which indicated that the confirmation of the payment of these charges by the Committee to Re-Elect the President was obtained from Mr. Bruce A. Kehrli, Special Assistant to the President. The memorandum indicating the President's direction to pay personal travel costs of his children and their friends is as follows:



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MEMORANDUM

THE WHITE HOUSE
WASHINGTON

May 4, 1971

MEMORANDUM FOR CARSON HOWELL
THRU: JIGGS FAUVER

Recently the President directed that he be billed for travel on government aircraft by Tricia, Ed Cox and Julie and David Eisenhower when they travel in other than an official capacity beginning on 1 April 1971. I have enclosed the travel for April.

Jiggs, would you please figure the appropriate amount and forward to Carson Howell for payment.

Carson, if you will please send the check to me I will forward it to the United States Air Force.

Bill Gulley
BILL GULLEY

Attachment

While the staff believes the President's family and in the President's income recommended to the extent March 31, 1972 and for this travel.

Early in its examination counsel that it be supplied President and his family only for flights where the President was not alone appears that in some re-flights. (For example, thebursements, made some fests.) Upon receiving the Mrs. Nixon's trips, the the manifests of the flight. The staff was told that it was requested in a letter mittee. Such a letter wa- dent's counsel responded that this information w reasons. The response is- The staff has also requ- with respect to material- were official and which w been supplied.

As is indicated in the corporate executives wh procedure is to charge f that current charter flig are generally in the rang- hour or, alternatively, it operating such a jet airc- hour. The staff, however, that because of the need for the President (and per appropriate mode of travel. I the usual procedure with mine the value of the e- operating the aircraft, th- to base the value upon- This is a cost of approxi-

Another issue involve- President should include- along on the trip. It has- fact that it is necessary- be no charge for member- panying him on the plane- the travel required for th- used on occasion in deter- of airplane travel by ce- friends or family member- basis that the President

While the staff believes that flights involving members of the President's family and personal friends should result in an inclusion in the President's income subject to tax, this would not be recommended to the extent the President (from April 1, 1971 through March 31, 1972 and again after November 16, 1972) personally paid for this travel.

Early in its examination the staff requested through the President's counsel that it be supplied with the manifests of all flights by the President and his family. The staff has been supplied with manifests only for flights where family members were passengers and the President was not along. In addition, from the staff examination it appears that in some respects the manifests do not report all of the flights. (For example, the President, during the period he made reimbursements, made some payments for flights not listed in the manifests.) Upon receiving the manifests involving only the children's and Mrs. Nixon's trips, the staff requested again that it be supplied with the manifests of the flights where the President was along on the trip. The staff was told that it could not have such information unless this was requested in a letter signed by the Chairman of the Joint Committee. Such a letter was sent to the President's counsel. The President's counsel responded to Chairman Long's letter on April 1, 1974, that this information would not be furnished and indicated the reasons. The response is shown in the Appendix in Exhibit XII-3. The staff has also requested an indication as to which flights (both with respect to material received and material it has not received) were official and which were personal. This information also has not been supplied.

As is indicated in the legal analysis presented above, in the case of corporate executives where a flight is considered personal the usual procedure is to charge for the cost of the flight. It was also noted that current charter flight rates for Jet Star executive jet aircraft are generally in the range of about \$1.70 per mile or \$1,000 per flight hour or, alternatively, if based only upon the expenses involved in operating such a jet aircraft, about \$1.50 per mile or \$900 per flight hour. The staff, however, agrees with views which have been expressed that because of the need to safeguard the President, commercial flights for the President (and perhaps for members of his family) are an inappropriate mode of travel. Because of this the staff believes, even though the usual procedure with respect to corporate executives is to determine the value of the economic benefit on the basis of the cost of operating the aircraft, that it would be more appropriate in this case to base the value upon the charge for first class commercial fare. This is a cost of approximately 11 to 17 cents per passenger mile.

Another issue involved is whether the income imputed to the President should include only those cases where the President was not along on the trip. It has been argued that if a trip is required by the fact that it is necessary for the President to travel, then there should be no charge for members of his family and personal friends accompanying him on the plane since they would not be on the flight but for the travel required for the President. This type of analysis has been used on occasion in determining whether income is realized in the case of airplane travel by corporate executives on business when their friends or family members accompany them. Presumably, it is on this basis that the President has refused to supply information as to the

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flights where the President was a passenger. However, the staff believes this type of analysis is not appropriate when all that is being treated as income is the cost of the first class fare of the individuals involved. In addition, generally where a family member accompanies an employee on a business trip, the presence of the family member must be shown to serve a business purpose for his or her expenses to be deductible.

In determining the economic benefit in the case of the flights shown on the manifests supplied to the staff (those where members of the family were not accompanied by the President), the staff made the computation of the flight costs at the standard first class fare applicable to each flight, using the rates in effect at the time the flights were taken.¹⁹ Because Government air bases were used for landing and take-off in numerous cases, an approximation of fare charges had to be made by using the flight costs to the nearest commercial airport. Also, in some cases where there were numerous stops or no comparable commercial flight between the same series of points it was impossible to make an exact determination of fare charges by using commercial fare schedules. In such cases the staff made the computations from the commercial schedules on the basis of either the furthest point to which there was direct flight service or the beginning and ending points for the trip. In addition, in numerous cases it apparently was necessary to arrange either to have an "empty" plane flown to meet the persons involved at their departure point or to leave them at their destination point and the plane return "empty" to its base. No attempt was made to include any charges for these "empty" plane flights. Although the manifests do not indicate all such flights, they do disclose that at a minimum such flights were necessitated 175 times during the period under review.

The manifest lists do not generally indicate whether the persons on the flights were Executive Department employees officially accompanying the President's family as one of the duties of their position or whether they were personal friends of the family. The staff in computing the fare charges has attempted to take into account only those flights involving family members or personal friends (or personal employees) of the family, and not others.

Computations of fare charges were made with respect to all of the flights involving members of the President's personal family and friends (on flights in which they were not accompanied by the President). Subsequently these amounts were reduced for reimbursements made by the President (between April 1, 1971 and March 31, 1972 and again after November 16, 1972).

Although the staff was not supplied with information as to which of the flights were personal and which were official, it made a breakdown on the basis of the best judgment it could apply. For example, it classified as official flights those which involved relatively brief stops at a number of cities. Also omitted were flights where it was suggested by the passenger lists that it was an official flight. Finally, all foreign flights were omitted.

Based upon the analysis indicated above, the staff found that there were 411 flights covered by the manifests of the flights where family members were not accompanied by the President. Of these, the staff believes that 70 may have been of an official nature,

leaving 341 as personal. At the same time the flights were not accompanied by family members represented a total value of \$6,693, leaving a net value of \$11,118 (including Federal air ticket taxes on the flights). Of this amount, \$11,118 was for 1972, leaving a net value of \$5,491 for 1970 and \$9,277 for 1971.

| By tax years the net value of the flights was: | |
|--|----------|
| 1969..... | \$4,911 |
| 1970..... | \$9,277 |
| 1971..... | \$9,247 |
| | which |
| 1972..... | \$11,118 |
| | which |

The staff believes that the flights were not included in the President's income. The staff is aware that the President was reimbursed for the flights after March 31, 1972. The staff believes that the reimbursements for the flights shown on the manifests and the reimbursements for the flights shown on the manifests to the personal use of the President were not included in the President's income. The staff determined that a number of flights were not included in the President's income either the pre-April 1, 1971 or the post-March 31, 1972. Of the significant delay (between the present), the staff believes that the flights should be included in tax.

As indicated above, in respect to flights on which the staff has not been possible to make an appropriate inclusion.

Information is available on President Nixon's trips on working vacations from 1969 through 1972. Information is available on Florida, San Clemente, California, and Key West family trips. This does not include trips from Key West (listed) or trips from Key West to The Camp David trips. The staff believes that the trips to Florida and working vacations were less likely to account for the flights. In addition, apparently helicopter flights are not included in the President's income. Flights from Key Biscayne, Florida, to Key West by helicopter.

As indicated above, the staff believes that the flights should be included in the President's income as to the number of family members or family friends or family charges (not including air taxes) as follows:²¹

¹⁹ The computation of fare charges for flights where the President was not a passenger is shown in the table above.

²¹ The computations of fare charges for flights where the President was a passenger is shown in the table above.

¹⁹ To determine the rates in effect when the flights were taken the staff used the Official Airline Guide, published at two-week intervals and computed each flight separately.

leaving 341 as personal. Using the first class air fare in effect at the time the flights were made, staff calculations indicate these flights represented a total value of \$33,708.19 (including \$2,266.47 as the Federal air ticket taxes which would be applicable to first class fare flights). Of this amount, the President has reimbursed the Treasury for \$6,693, leaving a total nonreimbursed figure of \$27,015.19.²⁰

By tax years the total indicated above is as follows:

| | |
|-----------|---|
| 1969..... | \$4,001.45. |
| 1970..... | \$9,275.89. |
| 1971..... | \$9,247.85 less reimbursement by the President of \$4,612, which leaves \$4,635.85. |
| 1972..... | \$11,183.00 less reimbursement by the President of \$2,081 which leaves \$9,102.00. |

The staff believes that these amounts should be treated as taxable income to the President for the years in which the flights occurred. The staff is aware that the President intended to make some reimbursements for the personal use of Government aircraft which occurred after March 31, 1971. In the staff's examination of the manifests and the reimbursements made by the President with respect to the personal use of the aircraft after March 31, 1971, the staff determined that a number of personal trips made by the President's family and their friends were not reimbursed. Since the staff has no information that there is an intention to make reimbursements for either the pre-April 1, 1971, personal use flights or the as-yet-unreimbursed post-March 31, 1971, personal use flights (particularly in light of the significant delay between the times the flights occurred and the present), the staff also believes that the charges for these flights should be included in taxable income.

As indicated above, manifests were not supplied to the staff with respect to flights on which the President was a passenger. Therefore, it has not been possible for the staff to make any determination as to an appropriate inclusion in income with respect to these flights.

Information is available, however, as to air travel involving President Nixon's trips on working vacations and weekends in each of the years 1969 through 1972. This includes primarily trips to Key Biscayne, Florida, San Clemente, California, and trips designated as private family trips. This does not include trips to Camp David (119 trips listed) or trips from Key Biscayne to the Bahamas (16 trips listed). The Camp David trips apparently were a mixture of working weekends and working vacations where presumably family and friends were less likely to accompany the President than in the other cases. In addition, apparently most of these trips were by helicopter, and helicopter flights are not included in computations shown here. The flights from Key Biscayne to the Bahamas also presumably were by helicopter.

As indicated above, the staff has not been supplied any information as to the number of family or friends on board these flights. If 2 or 3 personal friends or family members accompanied the President the charges (not including any charge for the President's fare) would be as follows:²¹

²⁰ The computation of fare costs on a flight-by-flight basis for those where the President was not a passenger is shown in the appendix (Exhibit VI-1).

²¹ The computations of fare costs on a flight-by-flight basis for those where the President was a passenger is shown in the appendix (Exhibit VI-2).

| Year | Value 2-person assumption | Value 3-person assumption |
|--------------|---------------------------------|---------------------------------|
| 1969 | \$5,186.00 | \$7,779.00 |
| 1970 | 5,835.50 | 8,643.00 |
| 1971 | 8,822.00 | 12,924.00 |
| 1972 | 5,524.00 | 8,184.00 |
| 4-year total | 25,367.50 | 37,530.00 |

It should be emphasized that the staff is not recommending to the committee any inclusion in income of the amounts shown above, since it has not been supplied with adequate information to make any appropriate estimates. This information is supplied merely to inform the committee as to the approximate amounts which could be involved.

PART 5

EXPENDITURES OF FEDERAL
NIXON'S PROPERTIES AT
CLEMENTE

1. Scope of Expenditures

After his election as President of the United States, Nixon acquired properties at Key Biscayne, Florida, and California. First, on December 1, 1969, he purchased residences located at 500 and 510 Biscayne Boulevard. Then on July 15, 1969, he purchased a residence located at "Cotton estate" in San Clemente, California. In addition, he purchased a small additional residence in San Clemente, California.

As a result of the use of these properties during his first term in office, substantial expenditures were incurred by the Federal Government. The authorities responsible for the expenditures set forth in two different statutory provisions requires the General Services Administration to provide services and administrative support to the President. The statutory authorities are derived from three different sources.¹ The Secret Service (and other individuals) by the Secret Service in this regard also directs other Federal agencies to assist the Secret Service in the performance of its duties upon request.

The General Services Administration has reviewed the Government agencies have spent for the protection of the President's properties at Key Biscayne, Florida, and San Clemente, California. In the past few months, numerous questions have been raised regarding expenditures were protective or not the applicable laws have been violated. A thorough review of the expenditures at Key Biscayne and San Clemente was made by the General Services Administration. In addition, congressional hearings were held by the Operations Subcommittee of the House of Representatives.

The Government Activities Subcommittee has reported the expenditure of Federal funds in the amount of \$25,367.50 on October 10, 11, 12, and 15, 1972.

¹ The Federal Property and Administrative Services Act of 1950, as amended (40 U.S.C. 5101-5107, 490 note).

² 18 U.S.C. 3056; Pub. L. 90-331, June 6, 1968, § 2-2.

³ This does not include those expenditures to construct Government property adjoining the President's estate estimated to be \$6 million.

October 3, 1974

To: Don Rumsfeld

From: Phil Buchen

Bill Casselman is also familiar with this problem and has a copy of a memo I once had prepared for then Vice President Ford which analyzes the income tax consequences and reaches a conclusion different from that of the Congressional Committee on Taxation.

cc: John Marsh



Fair Air Force One

October 2, 1974

FOR: Don Rumsfeld

FROM: Jack Marsh |¹

A word of caution on passenger selection for Air Force One. You should be aware there are some serious tax implications on air travel for guests on Air Force One unless they fall into an official status. There is considerable background I can give you or someone you designate which came to our attention in handling Vice Presidential travel.

Since I assumed the expenses of the attached flight will be covered by the RNC the question does not occur, but it is important to keep in mind in the use of any federal aircraft where the charges are not underwritten by the RNC.

It is not unlikely to expect on non-political trips that guests not in an official status will be chargeable to the President or aircraft host for income tax purposes at the rate of a first-class fare. Therefore, it is essential that the President be consulted before adding passengers who are guests without official status.

General Lawson in the Military Office is much aware of this situation and has been helpful in establishing rules and guidelines.

cc: Phil Buchen ✓

JOM:sc



THE WHITE HOUSE
WASHINGTON

October 3, 1974

To: Don Rumsfeld

From: Phil Buchen

P.W.B.

Bill Casselman is also familiar with this problem and has a copy of a memo I once had prepared for then Vice President Ford which analyzes the income tax consequences and reaches a conclusion different from that of the Congressional Committee on Taxation.

cc: John Marsh



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THE WHITE HOUSE
WASHINGTON

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Phil

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*Don. Rumsfeld
needs a memo
per his attached
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[Signature]

October 2, 1974

FOR: Don Rumsfeld

FROM: Jack Marsh |s/

Which one?

A word of caution on passenger selection for Air Force One. You should be aware there are some serious tax implications on air travel for guests on Air Force One unless they fall into an official status. There is considerable background I can give you or someone you designate which came to our attention in handling Vice Presidential travel.

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It is not unlikely to expect on non-political trips that guests not in an official status will be chargeable to the President or aircraft host for income tax purposes at the rate of a first-class fare. Therefore, it is essential that the President be consulted before adding passengers who are guests without official status.

General Lawson in the Military Office is much aware of this situation and has been helpful in establishing rules and guidelines.

cc: Phil Buchen ✓



JOM:sc

NOVEMBER, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

Aircraft 27000 (AIR FORCE ONE)

The U. S. Air Force placed Aircraft 27000 at the President's disposal on February 1, 1973. The plane succeeds Aircraft 26000, acquired in 1962, as the primary aircraft on all Presidential missions.

Aircraft 27000 was acquired from the Boeing Company, Seattle, Washington. Technically, it is a Boeing 707-353B. The U. S. Air Force designation is VC-137C. The Air Force requested authorization to procure a replacement airplane for the President of the United States in a supplemental budget request which was sent to the Congress on November 17, 1971. The supplemental was approved by the full Congress in late 1971. Jet engines were made available from existing Air Force inventory.

Aircraft 26000 will remain in use as the principal backup aircraft on Presidential missions. This assures the President, for the first time, backup transportation with the full range, speed, short field landing capability, and weather minimums as the primary plane. The Air Force purchased the aircraft 27000 for this reason.

Before Aircraft 27000 was added to the fleet, Aircraft 86970 served as the principal backup aircraft on all Presidential missions. It was the first jet aircraft placed at the President's disposal. It was acquired in 1959, and is a slightly slower, smaller model 707 than Aircraft 27000. For example, Aircraft 86970 has a range of 5,400 statute miles, compared to a range of more than 7,000 statute miles for both Aircraft 27000 and Aircraft 26000.

The configuration of Aircraft 27000 is the same as the configuration of Aircraft 26000, with minor modifications. The lounge area immediately behind the President's compartment has been relocated behind the staff work area so that it is immediately adjacent and available to Presidential guests. Certified seating capacity of the new Air Force One is 58 compared to 59 certified seats aboard Aircraft 26000.

The new Air Force One is maintained and operated by the 89th Military Airlift Wing, Special Missions, Andrews Air Force Base, Maryland. There are two other 707's in the 89th in addition to Air Force One and Aircrafts 26000 and 86970. They were acquired in 1959 and have similar characteristics to Aircraft 86970. They will remain with the 89th, flying the Vice President, Cabinet members, heads of foreign governments, and other executive and military leaders, high priority personnel and cargo.

(MORE)



AIR FORCE ONE SPECIFICATIONS

| | |
|-------------------------------------|---|
| Prime Contractor | The Boeing Company |
| Engines | Four Pratt & Whitney JT3D-3B engines (turbofan) |
| Dimensions | Span 145' 9"; length 152' 11"; height 42' 5" |
| Cruise Speed | 575 statute m. p. h. |
| Ceiling | Above 43,000 feet |
| Range | Beyond 7,000 statute miles |
| Load | 58 passengers |
| Crew | 10 or 11 (includes cockpit, communications and guards) |
| Maximum Gross Takeoff Weight | 328,000 lbs. |

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