



February 7, 2019

Ways & Means Committee Subcommittee on Oversight
1139 E. Longworth House Office Building
Washington, D.C. 20515
Via email to: W&Mdem.submission@mail.house.gov

RE: Submission of Frank Clemente, Executive Director, Americans for Tax Fairness, Regarding Legislative Proposals and Tax Law Related to Presidential and Vice-Presidential Tax Returns

Dear Chairman Lewis and Subcommittee Members:

Americans for Tax Fairness (ATF) is a coalition of 425 national, state and local endorsing organizations dedicated to creating a tax system that works for all Americans. This written submission urges the Ways and Means Committee to do two things:

1. **Support [Title X, “Presidential And Vice Presidential Tax Transparency,”](#) of H.R. 1, the “For the People Act of 2019.”** Title X would require the president and vice president, as well as major-party candidates for those offices, to disclose their last 10 years of federal income tax filings. We urge the committee to amend Title X to clarify that in addition to requiring disclosure of personal tax returns, you also require disclosure of tax return information of related entities, such as those directly or indirectly managed or controlled by the officeholder or candidate, including businesses and trusts.
2. **Expediently move to acquire President Trump’s tax returns using the authority granted under 26 U.S. Code § 6103(f).** It seems certain that the [Administration will strongly resist releasing the president’s tax returns](#), which could set up a legal challenge that might last months if not past the 2020 election.¹

Accompanying this submission is a report by our organization, “[The Case for Congress Obtaining Trump’s Tax Returns](#),” which provides detailed support for these two recommendations.² The report makes the case that President Trump’s tax returns would be invaluable tools for two distinct and equally important investigations:

¹ Politico, “The plan to keep Trump’s taxes hidden,” February 5, 2019.

<https://www.politico.com/story/2019/02/05/trump-tax-returns-congress-strategy-1145767>

² Americans for Tax Fairness, “The Case for Congress Obtaining Trump’s Tax Returns,” January 3, 2019.

<https://americansfortaxfairness.org/wp-content/uploads/ATF-The-Case-for-Congress-Obtaining-Trumps-Tax>Returns-12-18-18-FINAL.pdf>

1. As guides to the complex financial structures and tax loopholes used by the wealthy, including President Trump, to determine if they are avoiding their fair share of taxes through unfair special breaks, and how laws should be reformed to stop such tax avoidance and/or evasion.
2. As the best source of answers to vital questions about Donald Trump's presidency, including whether there are any conflicts of interest and/or foreign influences that could be adversely affecting his exercise of official duties.

For 40 years, all major party presidential candidates except one (Gerald Ford, who released a summary of his tax data) have voluntarily released their tax returns, some going back as far as 30 years. They understood that the public deserves to know if the person seeking election to the highest office in the land has evaded tax laws, has questionable financial entanglements or debts, or has conflicts of interest that might affect their ability to serve. Until now, legislation to require candidates to release their taxes wasn't needed.

But by failing to follow precedent, then-candidate and now-President Trump has made necessary the legislation under consideration today. His refusal to release his tax returns during the campaign, and in the years after election, has denied Americans the answers to some crucial questions: How much, if anything, has he paid in federal taxes to support the nation he leads? Do any of his businesses or investments conflict with his duties as president, or even endanger national security? How much has he or his businesses been personally enriched by the actions he has taken as president—especially passage of the Tax Cuts and Jobs Act in 2017?

Getting answers to these questions is likely why the public feels so strongly about this matter, as shown in two recent polls:

- By a **margin of 60% YES (48% strongly) to 35% NO (26% strongly)** a sample of 1,001 adults responded to this question: "Do you think the Democrats in the U.S. House of Representatives should or should not use their congressional authority to obtain and release Trump's tax returns?" [ABC News/Washington Post poll](#) (January 27, 2019)³
- By a **margin of 63% ALLOWED, 37% NOT ALLOWED**, a sample of 1,407 registered voters responded to this question: "Should incoming House Democratic leadership be allowed to get President Trump's tax returns and make them public, or should they not be allowed to do so?" [Harvard CAPS/Harris poll](#) (December 3, 2018, p. 216)⁴

³ ABC News/Washington Post poll, "Six in 10 Back Democratic Inquiries – Including Release of Trump Taxes," January 27, 2019. <https://www.langerresearch.com/wp-content/uploads/1204a2TrumpInvestigations.pdf>

⁴ Harvard CAPS/Harris poll, "Monthly Harvard-Harris Poll: November 2018," December 3, 2018, p. 216. https://harvardharrispoll.com/wp-content/uploads/2018/12/HHP_November2018_RegisteredVoters-Topline.pdf

Ironically, the very candidate and president who made Title X of H.R. 1 necessary may not be governed by it. Given the current political control of the U.S. Senate and the unlikelihood of President Trump signing H.R. 1 even if it were somehow to pass the other body, Title X will be unable to force disclosure of the presidential tax information the committee needs most and needs right now. Therefore, it is not enough to expand the power of the federal government to enforce tax transparency among future presidential and vice-presidential candidates and officeholders by approving Title X of H.R. 1. It is also crucial to expeditiously use your committee's power to obtain the tax returns of President Trump.

Under 26 U.S. Code § 6103(f), the chairman of the Ways & Means committee (along with the chairs of the Senate Finance Committee and the Joint Committee on Taxation) has the authority to request the tax returns of any taxpayer, including the president. The law states that, upon receipt of such a request, the Treasury Secretary "shall furnish" the returns to this committee. The committee may in turn submit those returns to the full House for review, effectively making them public.

Whether disclosed through an enacted Title X of H.R. 1, or by way of this committee's current powers, presidential and vice-presidential tax returns would reveal a lot about the status and character of those vying for and holding the highest offices in the land. But because of some extraordinary aspects of President Trump's financial circumstances and history, obtaining his tax returns would also serve valid legislative and civic purposes in the purview of this committee: as a guide to tax reform and to encourage compliance with the tax laws by average citizens.

President Trump is a billionaire, and yet has responded with pride to charges of going years without paying any federal income taxes. Reviewing his tax history could help explain how the very wealthy can go tax free and how to prevent it. Moreover, the principal source of President Trump's wealth—real estate—is infamous for the special treatment it receives under the tax code. Reviewing if and how President Trump has exploited real estate tax loopholes would provide a useful roadmap for reform.

Another tax-reform issue that could profit from access to the president's complete tax returns—including not only his personal 1040, but also returns filed by other entities associated with him—is the use of complex business structures and trusts to obscure sources and types of income and thereby minimize or eliminate tax liabilities. The Trump Organization is not a single company, but a collection of some [500 so-called "pass-through" business entities](#).⁵ How and why wealthy taxpayers work through multiple businesses, and whether they offer opportunities for tax avoidance, could be usefully explored through an examination of Trump Organization returns. Similarly, light could be thrown on any tax-avoidance implications of complex trusts such as GRATs through a review of trust tax returns filed by the president and his family.

⁵ Letter to Donald J. Trump from his tax attorneys, March 7, 2016. https://assets.donaldjtrump.com/Tax_Doc.pdf

Because of the importance of receiving a complete picture of this and future presidents' tax-paying status, we urge the committee to consider expanding Title X of H.R. 1 to require disclosure of tax returns of related entities directly or indirectly managed or controlled by the officeholder or candidate, including businesses and trusts. A possible approach might require disclosure by any entity for which the person is a [beneficial owner](#).⁶ This would capture entities where the covered candidate, president or vice president exercises control over the entities or has an interest in or receives substantial economic benefit from the assets of the entities.

We also urge the committee to include the returns of such related entities in the request we urge it to make for President Trump's tax returns under 26 U.S. Code § 6103(f).

Another reason to use existing authority to obtain President Trump's returns—besides the assistance they could provide to the formulation of tax-reform policies—is the urgency of answering questions that directly impact his qualification for office and the exercise of his official duties. Those questions include his possible violation of tax law, pursuit of personal financial gain through tax legislation, and gravest of all, sacrifice of the public interest and even of national security to his private business goals and requirements.

As documented in media reports and our report, there are instances of tax avoidance and likely even tax fraud by President Trump and his family that need to be investigated. The public has the right to know the accuracy of these accounts and if there are others yet to come to light; and if so, whether the president has ever been held accountable for them and whether the IRS has the authority and capacity to hold him accountable now.

The president should set a positive example for all taxpayers. President Trump looks like he has a lot to hide from the authorities, not to mention the American people. This may already be undermining the public's compliance with our tax laws. Congress's failure to act to determine if the president is complying with tax laws could make it look complicit, again undermining confidence in the equal application of the law and perhaps undermining voluntary compliance by taxpayers.

Despite his claims to the contrary, President Trump and his family probably benefitted greatly from the tax legislation he promoted and signed into law in 2017. ATF has estimated that the president [cut his taxes between \\$11 to \\$22 million a year](#), in addition to reducing future estate taxes.⁷ The public has a right to know if his support for the law was influenced by personal financial gain.

⁶ See Public Law No. 115-91, p. 590 for a definition of beneficial owner.

<https://www.congress.gov/115/plaws/publ91/PLAW-115publ91.pdf>

⁷ Americans for Tax Fairness, "How Trump Benefits From The New Trump-GOP Tax Law," July 10, 2018.

<https://americansfortaxfairness.org/issue/trump-benefits-new-trump-gop-tax-law/>

President Trump has been credibly charged with taking public action to protect and enhance his private wealth, particularly in relation to his luxury hotel a few blocks from the White House. His tax returns are likely to reveal potential conflicts of interest. Worse, the president has shown inexplicable deference to the leaders of foreign powers in conflict with the United States, including Russia and Saudi Arabia, raising the possibility that his business connections in those countries are influencing his conduct of American foreign policy and threatening national security. His tax returns and those of his business entities could provide evidence of foreign business connections that jeopardize his independence.

We thank you for the opportunity to provide this submission.