AMERICANS FOR TaxFairness

Testimony in Support of Rhode Island Senate Bill 91,
An Act Relating to Elections - Presidential Candidates
Submitted by Frank Clemente, Executive Director, Americans for Tax Fairness
Senate Judiciary Committee Hearing, May 11, 2017

Americans for Tax Fairness (ATF) strongly supports Senate Bill 91, which would require all presidential candidates to publicly release their tax returns for the five most recent years in order to appear on the Rhode Island ballot. ATF is a coalition of 425 national, state and local endorsing organizations united in support of a tax system that works for all Americans. In Rhode Island, we have more than 850 members and online supporters.

The need for SB 91 (and similar laws in other states) has arisen because Donald Trump broke with 40 years of precedent by refusing to release his tax returns while running for president. American voters were thus denied answers to some crucial questions: How much, if anything, had he paid in taxes to support the nation he wished to lead? Would any of his businesses or investments conflict with his duties as president, or even endanger national security? Would he personally benefit from his proposed tax-law changes?

Voters deserve to know how much presidential candidates have contributed in federal taxes to support the nation's infrastructure, education system, national defense and other vital public investments. The most recent IRS Taxpayer Attitude Survey found that 94% of taxpayers believe that it is every American's duty to pay their fair share in taxes.[1]

It has been documented that President Trump paid zero or close to zero in federal income taxes for at least five of the past 40 years, primarily due to losses he reported on his business ventures.[2] In addition, tax documents from 1995 showed that Mr. Trump reported a $916 million loss that tax experts say could have been used to avoid paying any federal income tax for up to 18 years.[3] His recently leaked 2005 tax return shows a business loss of $103 million that would have greatly reduced his income tax liability if not for the Alternative Minimum Tax.[4] As a real estate developer, there are several additional tax breaks that the president could have

[1] IRS Oversight Board, "2014 Taxpayer Attitude Survey," (December 2014). https://www.treasury.gov/IRSOB/reports/Documents/IRSOB%20Taxpayer%20Attitude%20Survey%202014.pdf
[2] Michelle Ye Hee Lee, "What we know about Donald Trump and his taxes so far," *The Washington Post* (August 1, 2016). https://www.washingtonpost.com/news/fact-checker/wp/2016/08/01/what-we-know-about-donald-trump-and-his-taxes-so-far/?utm_term=.bfd72d0959d9
[3] David Barstow, Susanne Craig, Russ Buettner and Megan Twohey, "Donald Trump Tax Records Show He Could Have Avoided Taxes for Nearly Two Decades, The Times Found," *The New York Times* (October 1, 2016). https://www.nytimes.com/2016/10/02/us/politics/donald-trump-taxes.html
[4] Richard Rubin and Michael C. Bender, "Leaked Return Shows Trump Paid $38 Million in Taxes in 2005," *The Wall Street Journal* (March 15, 2017). https://www.wsj.com/articles/trump-tax-records-leaked-to-msnbc-white-house-confirms-1489540089

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taken advantage of over the years to drastically slash his tax liability.[5]

It is also essential for voters to know about candidates' business and investment arrangements that might tempt them, once in office, to act for their personal enrichment rather than the good of the nation—especially when those actions have national security implications. The murky public details of President Trump's business dealings with Russia and other foreign governments—paired with his refusal to divest his businesses after taking office—offer a perfect argument for why candidates should be transparent about their financial interests and the conflicts they might pose with their official duties if elected.

If President Trump has investments in Russia or other countries, he might be hesitant to pursue policies that are in our national interest but would harm those foreign nations' economies or his personal investments. Various schedules of his Form 1040 tax return would reveal interest, dividends, capital gains, rents and royalties he received from such investments. Two separate forms that would be filed with his 1040 would reveal if he's a director of a foreign corporation or part of a foreign partnership. (Since President Trump and other wealthy investors often act through domestic partnerships and other "pass-through" entities discussed below, it would be important to see the tax returns of those entities as well.)

As president, Mr. Trump is able not only to protect the existing loopholes that allowed him to avoid federal income taxes for years, but also change the tax code to lavish even more tax cuts on wealthy people like himself. The tax plan put forth by candidate Trump includes several provisions that would benefit him personally. For example, he wants to eliminate the Alternative Minimum Tax (AMT). His 2005 tax return shows that it was the AMT that created the bulk of his federal tax liability that year: over $36 million, or about 24% of his $153 million total income—rather than the mere $5.3 million (3.5%) he would have paid in the absence of the AMT.[6] The AMT prevents wealthy taxpayers like President Trump from avoiding significant amounts of taxes through huge deductions and other loopholes, yet he would remove this safeguard from the tax system.

President Trump's tax plan also greatly reduces to 15% the tax rate on pass-through income (income derived from partnerships, S corporations and other business entities which pass income through to the owners' individual tax returns). For taxpayers in the highest individual income tax bracket of 39.6%, this rate reduction represents a tax cut of more than 60%. As a billionaire, the president is in the top bracket, and we know he owns more than 500 pass-through business entities.[7]

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[5] Laura Sanders, "The Tax Breaks Available to Donald Trump—And You," *The Wall Street Journal* (October 14, 2017). https://www.wsj.com/articles/how-landlords-not-named-trump-can-avoid-paying-taxes-1476465734

[6] Americans for Tax Fairness, "Trump Trying to Eliminate the Biggest Tax He Pays: The Alternative Minimum Tax" (March 15, 2017). https://americansfortaxfairness.org/trump-trying-eliminate-biggest-tax-pays-alternative-minimum-tax/

[7] Sheri A. Dillon and William F. Nelson, Morgan, Lewis & Bockius LLP, "Re: Status of U.S. federal income tax returns" (March 7, 2016). http://americansfortaxfairness.org/wp-content/uploads/Trump-tax-attorney-letter.pdf

Thus, the president stands to benefit handsomely from this large cut in the tax rate on pass-through income.

President Trump's family would enjoy an immense windfall from his plan to repeal the estate tax. This tax is paid only by the estates of the top 0.2% of Americans[8] and guards against the perpetuation of dynastic wealth. Its repeal could boost the inheritances of the president's family by some $4 billion, if he is worth $10 billion, as he claims to be.[9]

Because of his failure to release his tax returns, voters never had the chance to determine just how much Mr. Trump and his family would benefit from these and other tax changes he promoted during the campaign.

Contrary to President Trump's assertion that the American people don't care about his tax returns, a Washington Post-ABC News poll conducted in mid-January found that 74% of Americans thought he should release them.[10] This includes 49% of Republicans, in addition to 75% of Independents and 89% of Democrats.

The Pew Research Center found in another poll that 60% of the public believes President Trump has a responsibility to release his returns, compared to 33% that believes he does not have this responsibility.[11] And since January 20, more than 1 million people have signed a petition on the White House website calling on President Trump to immediately release his tax returns. Clearly, Americans want this kind of financial transparency.

Of course, the problem of undisclosed tax returns might not end with President Trump. By breaking a 40-year tradition, he has invited future presidential candidates to hide their tax returns as well. If they do, voters would be forced to choose their leaders while entirely in the dark about the important issues of honesty, generosity and potential conflicts of interest that are illuminated by tax-return information.

The national political climate makes it unlikely any time soon that Congress will require presidents and major party candidates to release their tax returns. It is even more unlikely President Trump would sign such legislation. Therefore, it is critical that states step in to ensure that future presidents and presidential candidates remain accountable to the public. We urge you to provide this service to the nation.

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[8] Chye-Ching Huang and Chloe Cho, "Ten Facts You Should Know About the Federal Estate Tax," *Center on Budget and Policy Priorities* (September 8, 2016). http://www.cbpp.org/research/ten-facts-you-should-know-about-the-federal-estate-tax

[9] The federal estate tax is levied at 40% of the value of an estate after an exemption of $5.45 million per spouse.

[10] Washington Post-ABC News Poll, January 12-15, 2017. https://www.washingtonpost.com/page/2010-2019/WashingtonPost/2017/01/16/National-Politics/Polling/question_18449.xml?uuid=YaxgCtwnEeaJAmEP5IZ5HA

[11] Pew Research Center, "Negative Views of Trump's Transition, Amid Concerns About Conflicts, Tax Returns," (January 10, 2017). http://www.people-press.org/2017/01/10/negative-views-of-trumps-transition-amid-concerns-about-conflicts-tax-returns/

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