

RESOLUTION OF INQUIRY DIRECTING THE SECRETARY OF THE TREASURY TO PROVIDE TO THE HOUSE OF REPRESENTATIVES THE TAX RETURN INFORMATION OF PRESIDENT DONALD J. TRUMP AS WELL AS THE TAX RETURNS OF EACH BUSINESS ENTITY DISCLOSED BY DONALD J. TRUMP ON HIS OFFICE OF GOVERNMENT ETHICS FORM 278E

SEPTEMBER 14, 2017.—Referred to the House Calendar and ordered to be printed

Mr. BRADY of Texas, from the Committee on Ways and Means, submitted the following

**ADVERSE REPORT**

together with

**DISSENTING VIEWS**

[To accompany H. Res. 479]

The Committee on Ways and Means, to whom was referred the resolution (H. Res. 479) of inquiry directing the Secretary of the Treasury to provide to the House of Representatives the tax return information of President Donald J. Trump as well as the tax returns of each business entity disclosed by Donald J. Trump on his Office of Government Ethics Form 278e, having considered the same, report unfavorably thereon without amendment and recommend that the resolution not be agreed to.

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## I. SUMMARY AND BACKGROUND

### A. PURPOSE AND SUMMARY

H. Res. 479 requests that the Secretary of the Treasury provide the House of Representatives with ten years of tax returns and other financial information of President Donald J. Trump. The resolution also requests that the Secretary of the Treasury provide the House of Representatives with ten years of tax returns for each of the more than 500 business entities listed on the President’s financial disclosure, Office of Government Ethics Form 278e.

### B. BACKGROUND AND NEED FOR LEGISLATION

On July 27, 2017, H. Res. 479 was introduced by Representative Bill Pascrell. H. Res. 479 is a resolution of inquiry, which is a means infrequently used by the House of Representatives designed to obtain certain factual information from the Executive Branch. Under clause 7 of rule XIII, a resolution of inquiry is subject to a motion to discharge from committee if the resolution is not reported by the committee to which it was referred within 14 legislative days of its introduction.<sup>1</sup> Accordingly, the Committee on Ways and Means scheduled a markup of H. Res. 479 within the 14-day period.

The Committee reported the resolution unfavorably because, among other flaws, the resolution asks the Secretary of the Treasury to break the law by disclosing the tax returns of the President directly to the House of Representatives. Furthermore, it would set a dangerous precedent by targeting a single individual’s confidential tax returns and associated financial documents for disclosure.

This resolution asks the Secretary of the Treasury to deliver tax returns and return information to the House of Representatives, which would be a violation of current law. Section 6103(a) of the Internal Revenue Code sets out the general rule that all tax returns and return information are to be kept confidential unless explicitly authorized in statute.<sup>2</sup> The Code authorizes a handful of exceptions to the general rule of confidentiality, such as for criminal investigations relating to a missing or exploited child.<sup>3</sup> Congress is authorized to receive tax returns and return information under a codified exception, but only under certain circumstances.<sup>4</sup> Specifically, after a written request by the Ways and Means Committee Chairman, the information is to be furnished to the Committee “only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.”<sup>5</sup> The Code does not authorize the House of Representatives to receive confidential

<sup>1</sup> Rules of the House of Representatives rule XIII, clause 7.

<sup>2</sup> 6 U.S.C. § 6103(a) (2012).

<sup>3</sup> See generally 26 U.S.C. § 6103 (2012).

<sup>4</sup> 26 U.S.C. § 6103(f) (2012).

<sup>5</sup> 26 U.S.C. § 6103(f)(1) (2012); see also 26 U.S.C. § 6103(f)(3) (2012) (authorizing non-tax writing committees to receive tax returns and return information only when sitting in closed executive session).

tax returns and return information from the Secretary of the Treasury, as H. Res. 479 directs.

In addition to being legally flawed, H. Res. 479 would set a dangerous precedent. At times, this Committee has sought the tax returns and return information of individuals as a part of our legislative responsibility to oversee the tax code; however, the purpose of this resolution is to single out one individual. Such action would be the first time the Committee exercised its authority to wade into the confidential tax information of an individual with no tie to any investigation within our jurisdiction. Some Members have suggested there is a precedent for this—that the tax-writing committees used the authority granted under Section 6103(f) to access and review President Nixon’s tax returns in 1973. However, such assertions are not supported by the facts. The facts are these: President Nixon voluntarily released his own tax returns and he also requested a review of them by the Joint Committee on Taxation.<sup>6</sup>

Not only would targeting an individual in this manner be an abuse of authority, it would also be an invasion of privacy. Tax returns contain highly confidential and sensitive information and Congress has rightly put high walls around this information’s disclosure. There is no exception under current law for the disclosure of confidential personal tax return information for purposes of embarrassing or attacking political figures of another party. Those very sorts of partisan attacks were the motivation for Congress’ enacting changes in the Tax Reform Act of 1976 that comprise current law and are designed to protect taxpayers’ privacy.<sup>7</sup> Directing the Secretary of the Treasury to now break current law by violating the confidentiality of tax return information is profoundly misguided.

Furthermore, as was made clear in the Committee’s markup, there is no legal requirement in the Code for the President to release his tax returns. While this may be the practice that recent Presidential candidates have followed, each has done so voluntarily, and not because he or she was bound by law to do so.

In addition to its other flaws, the resolution amounts to a fishing expedition. A recent report by the nonpartisan Congressional Research Service notes that resolutions of inquiry are a tool used by the minority increasingly to score partisan points and get Members “on the record with difficult policy votes.”<sup>8</sup> This is demonstrated by the fact that the Committee has already dispensed with a nearly identical resolution of inquiry by the same Representative just four months prior to this one. On March 9, 2017, H. Res. 186 was introduced by Representative Bill Pascrell and was also a resolution of inquiry requesting the Secretary of the Treasury provide the House of Representatives with ten years of tax returns and other financial

<sup>6</sup>John Herbers, “Voluminous Data,” *The New York Times*, Dec. 9, 1973.

<sup>7</sup>See 122 Cong. Rec. 24012–13 (July 27, 1976) (statement of Sen. Dole) (“I cannot stress enough the importance of preserving the confidentiality of individual tax returns. These reforms respond in part to the challenge we face as public officials—the restoration of public trust in Government and Government officials. Past abuses and lax administration demonstrate the need for reform of the Nation’s income tax system so that doubts in the public mind about the integrity of the Internal Revenue Service can be dispelled . . . The tax return privacy provisions of this bill balance Government’s need for tax return information with the citizens’ right of privacy.”)

<sup>8</sup>Christopher M. Davis, Cong. Research Serv., R40879, Resolutions of Inquiry: An Analysis of Their Use in the House, 1947–2011, at 9–10 (2012).

information of President Trump. H. Res. 186 was similarly dispensed with on March 28, 2017.

### C. LEGISLATIVE HISTORY

#### *Background*

H. Res. 479 was introduced by Representative Bill Pascrell on July 27, 2017, and was referred to the Committee on Ways and Means.

#### *Committee hearings*

The Committee held no hearings on H. Res. 479.

#### *Committee action*

The Committee on Ways and Means marked up H. Res. 479 on September 7, 2017, and ordered the bill unfavorably reported (with a quorum being present).

## II. EXPLANATION OF THE BILL

H. Res. 479 directs the Secretary of the Treasury to provide to the House of Representatives the tax returns and other specified financial information of President Donald J. Trump along with the tax returns of more than 500 business entities included on the President's financial disclosure Form 278e.

## III. VOTES OF THE COMMITTEE

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H. Res. 479, "Of inquiry directing the Secretary of the Treasury to provide to the House of Representatives the tax return information of President Donald J. Trump as well as the tax returns of each business entity disclosed by Donald J. Trump on his Office of Government Ethics Form 278e.," on September 7, 2017.

The resolution was ordered unfavorably transmitted to the House by a rollcall vote of 21 yeas and 15 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Brady .....	x	.....	.....	Mr. Neal .....	.....	x	.....
Mr. Johnson .....	x	.....	.....	Mr. Levin .....	.....	x	.....
Mr. Nunes .....	x	.....	.....	Mr. Lewis .....	.....	x	.....
Mr. Tiberi .....	x	.....	.....	Mr. Doggett .....	.....	x	.....
Mr. Reichert .....	x	.....	.....	Mr. Thompson .....	.....	x	.....
Mr. Roskam .....	x	.....	.....	Mr. Larson .....	.....	x	.....
Mr. Buchanan .....	.....	.....	.....	Mr. Blumenauer .....	.....	x	.....
Mr. Smith (NE) .....	x	.....	.....	Mr. Kind .....	.....	x	.....
Ms. Jenkins .....	x	.....	.....	Mr. Pascrell .....	.....	x	.....
Mr. Paulsen .....	x	.....	.....	Mr. Crowley .....	.....	.....	.....
Mr. Marchant .....	x	.....	.....	Mr. Davis .....	.....	x	.....
Ms. Black .....	.....	.....	.....	Ms. Sanchez .....	.....	x	.....
Mr. Reed .....	x	.....	.....	Mr. Higgins .....	.....	x	.....
Mr. Kelly .....	x	.....	.....	Ms. Sewell .....	.....	x	.....
Mr. Renacci .....	x	.....	.....	Ms. DelBene .....	.....	x	.....
Mr. Meehan .....	x	.....	.....	Ms. Chu .....	.....	x	.....
Ms. Noem .....	x	.....	.....				
Mr. Holding .....	x	.....	.....				
Mr. Smith (MO) .....	x	.....	.....				
Mr. Rice .....	x	.....	.....				

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Schweikert .....	x	.....	.....				
Ms. Walorski .....	x	.....	.....				
Mr. Curbelo .....	.....	.....	.....				
Mr. Bishop .....	x	.....	.....				

#### **IV. BUDGET EFFECTS OF THE BILL**

##### **A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS**

Clause 3(d) of rule XIII of the Rules of the House of Representatives is inapplicable.

##### **B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY**

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable.

##### **C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE**

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee advises that the Congressional Budget Office did not provide a cost estimate for the resolution.

#### **V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE**

##### **A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

##### **B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES**

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not authorize funding, so no statement of general performance goals and objectives is required.

##### **C. INFORMATION RELATING TO UNFUNDED MANDATES**

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

##### **D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS**

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of H. Res. 479 do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

## E. DUPLICATION OF FEDERAL PROGRAMS

In compliance with Sec. 3(g)(2) of H. Res. 5 (115th Congress), the Committee states that no provision of H. Res. 479 establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95-220, as amended by Pub. L. No. 98-169).

## F. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(i) of H. Res. 5 (115th Congress), the following statement is made concerning directed rule makings: The Committee estimates that H. Res. 479 specifically directs to be completed no specific rule makings within the meaning of 5 U.S.C. Sec. 551.

**VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee advises that H. Res. 479 would not make any changes to existing law.

## VII. DISSENTING VIEWS

Committee Democrats strongly oppose the Committee's action of unfavorably reporting H. Res. 479, Resolution of inquiry directing the Secretary of the Treasury to provide to the House of Representatives the personal and business tax returns of President Donald J. Trump, and other specified financial information. Committee Republicans continue to block our requests for this Committee to exercise its authority under Section 6103 of the Internal Revenue Code to obtain, examine, and make available to the public President Trump's federal tax returns.

This Committee has broad jurisdiction over a variety of laws that affect the lives of millions of Americans, including the federal tax law. The President and Congressional Republicans have been very vocal regarding their desire to enact comprehensive tax reform this Congress. Committee Democrats believe that it is imperative for the public to know and understand how such tax reform will benefit the President, his 515 financial positions in domestic and foreign companies,<sup>1</sup> and his self-reported net worth of more than \$10 billion.<sup>2</sup>

Since the early 1970s, all presidents, Republican and Democrat, have chosen to release their individual tax returns with the exception of Republican Gerald Ford who released a tax summary.<sup>3</sup> These presidents include: Richard Nixon (4 years), Jimmy Carter (3 years), Ronald Reagan (6 years), George Bush (3 years), Bill Clinton (8 years), George W. Bush (8 years), and Barack Obama (16 years). In recent years, presidential candidates and their vice-presidential candidates also have released their individual tax returns, including Hillary Clinton (16 years), Tim Kaine (9 years), Mitt Romney (2 years), and Paul Ryan (2 years).

Tax returns provide the clearest picture of a president's financial health, including how much he earns, how much tax he pays, his sources of income (*e.g.*, capital gains, dividend income, and certain business income), the size of his deductions, whether he makes charitable contributions, and whether he uses tax shelters, loopholes, or other special-interest provisions to his advantage. All of these items are critical in order for the public to gain a more complete understanding of how tax reform will benefit President Trump and his vast business empire.

If ever there was a president with respect to which this Committee should exercise its Section 6103 statutory authority to obtain individual tax returns, President Trump is the one. A president with a vast domestic and international business empire. A

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<sup>1</sup><https://www.washingtonpost.com/wp-stat/graphics/politics/trump-archive/docs/trump-fec-financial-disclosure-2015.pdf>.

<sup>2</sup>[www.washingtontimes.com/news/2016/may/24/donald-trump-net-worth-10-billion-campaign-manager/](http://www.washingtontimes.com/news/2016/may/24/donald-trump-net-worth-10-billion-campaign-manager/).

<sup>3</sup><http://www.taxhistory.org/www/website.nsf/web/presidentialtaxreturns>.

president who has rebuked over 40 years of tradition and refused to release his individual tax returns to the public. A president who will negotiate and ultimately may sign comprehensive tax reform into law. A president who is not the average American—he has assets, business interests, and foreign entanglements that far surpass the average taxpayer. Moreover, the Constitution of the United States, in Article II, vests the power of the Executive Branch exclusively in the president. The Constitution of the United States, in Article I, vests in him with the sole authority to sign bills into law. No other American has such power. Hence, Committee Democrats remain steadfast in our pursuit to have his federal tax returns disclosed to the public.

Members of Congress on both sides of the aisle have called on President Trump to release his tax returns. Starting in February, Committee Democrats began pressing Committee Republicans to use the authority under Section 6103 to obtain President Trump's tax returns and make them available to the public. Committee Democrats have sent letters urging, and offered amendments to force, the Chairman to obtain President Trump's tax returns for review by the Committee. The Chairman and Committee Republicans have refused to act and voted down our amendments on party lines.

There is no doubt that the Chairman has the power to obtain President Trump's personal and business tax returns for review by the Committee. With respect to this Committee, Section 6103(f)(1) provides that, upon written request from the Chairman, the Treasury Secretary shall furnish to the Committee any return or return information specified in the written request. However, any information that can be associated with a particular taxpayer shall be furnished to the Committee only when sitting in closed executive session unless the taxpayer consents otherwise in writing to such disclosure. Section 6103(f)(4)(A) further provides that any return or return information obtained by or on behalf of the Committee pursuant to this section may be submitted by the Committee to the House. Procedurally, upon submission to the House, the tax return and return information would become available to the public. Committee Republicans used these exceptions in the past to release confidential taxpayer information.

In closing, there is nothing in Section 6103 that prohibits a taxpayer from releasing the taxpayer's own tax returns or consenting to the disclosure of such tax returns or return information. In a January 2017 ABC/Washington Post poll, three-quarters of Americans say that President Trump should release his tax returns—including nearly 50 percent of his own supporters. It is our sincerest hope that President Trump will release his tax returns to the American public as virtually all presidents have done since Richard Nixon.

RICHARD E. NEAL,  
*Ranking Member.*  
BILL PASCRELL, JR.