TAX NOTES TODAY®

News Analysis -- The First Family's Tax Returns

by Lee A. Sheppard

Contributing editor Lee A. Sheppard examines not only the Clintons' tax returns, but the Gores' returns as well.

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=============== SUMMARY ===============

In news analysis, contributing editor Lee A. Sheppard analyzes both the Clintons' and the Gores' income tax returns.

Both families gave more to charity for 1998 than they did in 1997, but in both cases, the charitable donations represented book royalties that they could live without. In neither case did the charitable donations hurt the givers in the pocketbook. Indeed, much fuss was made about how chintzy the Gores were in 1997, when they gave only $353 to charity. But this year's charitable donations reflect only a recycling of the vice president's book royalties -- and not all of them at that. The same is true for the Clintons' charitable donations. So what? These are people who have virtually no living expenses.

=============== FULL TEXT ===============

As the fashion magazines herald an incipient 1950s revival and actress Drew Barrymore takes wholesome movie roles, the woman who famously refused to bake cookies is writing a new book about her role as White House hostess. Yes, First Lady Hillary Rodham Clinton, who has published books about children and pets, will continue to explore the frontiers of domesticity by instructing us all on how to give successful dinner parties. The forthcoming book, An Invitation to the White House, is described by the publisher as "an account of the Clintons' style of entertaining in the White House." Presumably this will be an account of Mrs. Clinton's style of entertaining; we already know rather more than we want to know about the POTUS's, uh, style of entertaining.

The first lady's junior counterpart, Tipper Aitcheson Gore, who hopes to become first lady, suffers from no credibility problems in the housewifery realm. Indeed, her problem is the opposite; since the mightily embarrassing 1984 Senate hearing on rock lyrics that she initiated, Mrs. Gore has been trying to prove that she is not stuck in the 1950s. So this year, just to prove that no one is trying to hide anything -- like the Gores' privileged backgrounds -- we analyze both the Clintons' and the Gores' income tax returns.

And there's not much to hide. Both families gave more to charity for 1998 than they did in 1997, but in both cases, the charitable donations represented book royalties that they could live without. In neither case did the charitable donations hurt the givers in the pocketbook. Indeed, much fuss was made about how chintzy the Gores were in 1997, when they gave only $353 to charity. But this year's charitable donations reflect only a recycling of the vice president's book royalties -- and not all of them at that. The same is true for the Clintons' charitable donations. So what? These are people who have virtually no living expenses.

Minimum Tax

The first couple reported capital gains of $200,318, an amount that exceeded the president's $200,000 salary. Of that, $53,462 represented net short-term capital gains, and $146,856 represented net long-term capital gains. The selling was done by the president's blind trust. The return does not report what was sold.

Because of very large capital gains, the first couple reported an adjusted gross income of $504,109, which would put them in the league of rich people, and did put them into the minimum tax, which increased their total tax liability by $3,535, to $89,951. Asked at an April 13 White House press briefing whether the president had an opinion about becoming subject to the alternative minimum tax, which the Republicans are foaming at the mouth to repeal, White House press officer Barry Toiv replied that the president had no opinion on becoming subject to the alternative minimum tax, and would not base his opinion of the AMT on his personal circumstances.

At that same briefing, Toiv was asked whether the president's blind trust sold assets in 1998 to pay part of the Paula Jones settlement. Toiv replied that it is impossible to know why the blind trust was selling, since it is, after all, a blind trust. As of 1997, the blind trust had assets of slightly more than $1 million; with that level of assets, the trust may well own shares in mutual funds that did some selling. However, it is also possible that the trust was selling to satisfy the Jones settlement. The White House has acknowledged that blind trust funds were used to pay a portion of the settlement in 1999. On November 13, 1998, Paula Jones agreed to drop her appeal of the federal district court's dismissal of her sexual harassment case for a settlement of $850,000, which was due in full 60 days from the date of settlement.

Of course, the burning question on the minds of Tax Notes readers is why the Clintons appear to pay so much for tax preparation. The Clintons' 1998 schedule A shows $7,215 for tax preparation and accounting services. The entries for 1997 and 1996 were even higher: $8,910 for 1996, and $8,030 for 1997. "This is a $1,500 return," commented Steven **Bankler**, a San Antonio accountant and return preparer.

The White House press office explained that the fees encompass accounting services all year long, preparation of financial disclosure forms, and representation on audit (the president's return is audited every year). Toiv maintains that even public officials who are not rich have complicated financial lives. However, given the dearth of Clinton family assets and the superficiality of financial disclosure forms, the president's fees still seem rather stiff. But then professionals are supposed to avoid the appearance of giving the president sweetheart deals.

Book Royalties

Two years ago, Tax Notes scolded Hillary Clinton for overpaying her taxes and reducing the amount available to charity by retaining ownership of the copyright on It Takes A Village. (Tax Notes, May 5, 1997, p. 616.) Mrs. Clinton did not make that mistake with Dear Buddy, Dear Socks, the copyright on which is owned by the National Park Foundation. That way, the royalties from the pet book do not pass through her hands or appear on her return. The copyright for the forthcoming hostess book will be handled the same way.

Indeed, ownership of the copyrights on the newer books never passed through Hillary Clinton's hands. When the projects were conceived, the book contracts were structured so that the copyrights were owned by charities. The White House Historical Association owns the arts and crafts book to which Mrs. Clinton wrote the introduction. A charity yet to be chosen will own the copyright on the forthcoming hostess book.

The royalties for It Takes A Village are still running through the Clintons' return, and **Bankler** contends that more money should be going to charity than is finding its way to a list of unnamed charities. The Clintons deducted $161,938 of charitable contributions for 1998; of that, $62,718 was an excess contribution carried over from 1997, so that their actual giving in 1998 was $99,220. The pool of money available for charitable contributions by the Clintons -- that is, the pool that they had stated would be directed to charity -- was somewhat larger than that.

The pool of money available for charitable contributions by the Clintons includes the $12,000 of interest and dividend income from the Henry G. Freeman Jr. Pin Money Fund for the sitting first lady that Mrs. Clinton receives and donates every year. The pool includes her $74,289 of royalties from It Takes A Village less the actual cost to the Clintons of paying the reported $10,471 in self-employment taxes on those royalties (that cost is $8,403 calculated at the 39.5 percent rate). So the royalties available for contribution would be $65,886. That plus the pin money equals $77,886. To that must be added the tax benefit of the excess contribution $62,718 carryover from the previous year; **Bankler**, using the 39.5 percent tax rate, puts this at $24,711. **Bankler** argues that the Clintons should have given away the available royalties and pin money for 1998 plus the tax benefit of the carryover, so that giving for 1998 should have been $102,597, or $3,377 more than the Clintons' actual giving for 1998. That is, he maintains, the charities did not get the entire economic benefit of Mrs. Clinton's tax savings.

The White House press office does not see it that way. Its position, outlined at the April 13 press briefing, is that in 1998, the Clintons gave more to charity than they had promised to. The simplistic official view is that $99,220 exceeds the total of the $74,289 royalties plus the $12,000 pin money by nearly $13,000. That is, the Clintons were not obliged to give away an additional amount representing the tax benefit of their charitable contributions. After all, there was a 1997 tax cost of having the 1997 excess contribution disallowed and carried forward to get the 1998 tax benefit. The actual calculation, according to a source, is even more basic; the Clintons pay the appropriate tax, and whatever is left goes to the charities, with no fancy calculations about who got the economic benefit of the tax deduction.

The Gores' giving suffers from the same problem. Gore reported $20,564 of royalties from his 1992 book Earth in the Balance on his 1998 Schedule C, from which he deducted $2,335 in commissions. The Gores gave $15,197 to charity in 1998. **Bankler** contends that $17,942 should have gone to charity; that would be the Gores' net royalties of $18,229 less the nondeductible portion of the self-employment tax paid on them.

Whose Employee?

Vice President Gore, who has been described as "Jimmy Carter without the sense of humor," was busy running for president when this article was being written, so it was difficult to get his staff to answer questions. Tipper Gore apparently is a photographer. She received royalties from her book of photographs Picture This for which she files a Schedule C; she reported gross income of $113 for 1998.

Something called "Photographs by Tipper Gore," oddly, has an employee to which it pays $9,445 per year and for whom it files a Schedule H, on which employment taxes for household help are reported. That person, Philomina Boateng, is a household employee of the Gores. Now, Ms. Boateng is either a household employee or she is not. If she is a household employee, then Schedule H is proper. If she is an employee of a business called Photographs by Tipper Gore, then her employment taxes should be reported on Forms 940 and 941.

Even if Ms. Boateng is a household employee, it would still be correct to report her employment taxes on a business form. People who have sole proprietorships have the option of reporting employment taxes for their household help along with their business employees on their business forms, Forms 940 and 941, instead of filing Schedule H. But the converse is not the case; sole proprietorships do not have the option of putting business employees on Schedule H. (IRS Publication 926 (Nov. 1998).)

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