

Richard Nixon Presidential Library
White House Special Files Collection
Folder List

<u>Box Number</u>	<u>Folder Number</u>	<u>Document Date</u>	<u>Document Type</u>	<u>Document Description</u>
7	17	N.D.	Other Document	Handwritten Christmas note from Wm. And Barbra Hollister to RMN and family.. Handwritten note specifying thank you note. 2 pgs.
7	17	12/13/1973	Memo	Memo from Jon Rose to General Haig RE: Request for power of attorney from RN and PN. 1 pg.
7	17	N.D.	Memo	Memo from General Haig to RN RE: Signatures requested for attached power of attorney. 1 pg.
7	17	N.D.	Other Document	Unsigned power of attorney form by RN and PN appointing Dean S. Butler, Arthur B. Willis and John E. Scheifly as attorneys-in-fact to represent RN and PN before the California State Franchise Tax Board. 1 pg.
7	17	12/07/1973	Letter	Letter from Martin Huff of the California State Franchise Tax Board to RN and PN RE: unfiled tax returns for the Nixon's California-based trust. 1 pg.
7	17	12/09/1973	Letter	Letter from Martin Huff of the California State Franchise Tax Board to RN RE: Request for a signed release form. 1 pg.

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7	17	N.D.	Other Document	California Revenue & Taxation Code Part 10 Personal Income Tax, Chapter 2 Administration of Tax, Article 2 Disclosure of Information. 1 pg.
7	17	N.D.	Other Document	Unsigned California State Franchise Tax Board confidentiality release form. 1 pg.
7	17	08/16/1973	Letter	Letter from Dean S. Butler of Willis, Butler and Scheifly to Coopers & Lybrand RE: Legal opinion as to RN's California residency and obligation to file a California tax return. 5 pgs.
7	17	12/13/1973	Memo	Memo from Jon Rose to General Haig RE: Request for power of attorney from RN and PN. 1 pg. (Duplicate - Not Scanned)
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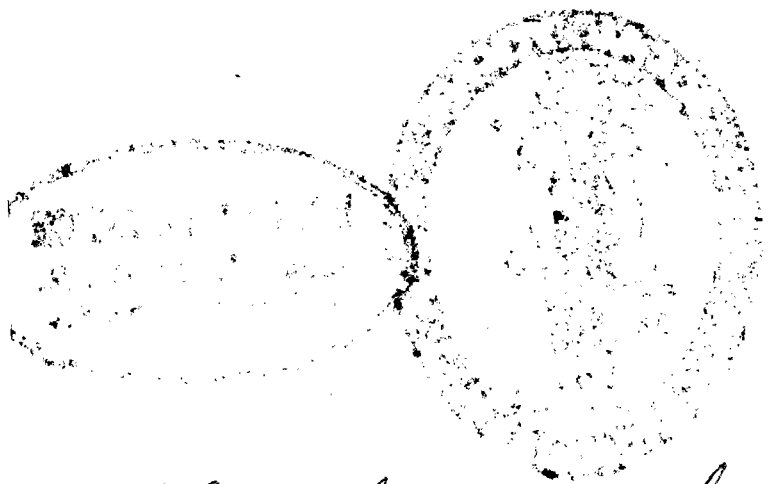


Thank you
note

HONEY HILL RANCH
9300 S.W. 117th AVE.
271-3255 MIAMI 56, FLA.

Merry
Christmas

To
President Elect Nixon
and Family,
These are Special Minicola
Tangelos from Old Line of Mia
Experimental Farm.
(OVER)



Mr. Rebozo will know
of it. Stay well and
have the outstanding
administration which
you so well deserve.
Wm. L. Albarino
Hollister

COUNCIL ON INTERNATIONAL ECONOMIC POLICY

WASHINGTON, D.C. 20500

December 13, 1973

TO: General Haig

FROM: Jon Rose

SUBJECT: Request for power of attorney from President
and Mrs. Nixon

The documents attached at Tab A are a memo from you to the President describing the power of attorney (also attached) which will enable Mr. Dean S. Butler to represent the President and Mrs. Nixon before the California State Franchise Tax Board.

We have received the two communications (attached Tab B) from the Board. Messrs. Garment and Gemmill have agreed that Mr. Butler should be asked to represent the President. Mr. Butler wrote the opinion letter (attached Tab C) which we distributed at the press briefing declaring that the President "was not a resident" under California tax laws and, therefore, did not need to file a California state income tax return. It should be assumed that a retainer will be involved and that this representation will be on a compensated basis.

The power of attorney must be signed both by the President and Mrs. Nixon. As soon as this has been accomplished, I will forward it together with the correspondence from the California State Franchise Tax Board to Mr. Butler.

Attachments

- A. Memo to the President
Power of Attorney
- B. Letter to President Nixon from
Martin Huff, California State
Franchise Tax Board, 12/9/73
Letter to President and Mrs. Nixon
from Martin Huff, California State
Franchise Tax Board, 12/7/73
- C. Letter to Coopers & Lybrand (N.Y.)
from Dean S. Butler; 8/16/73

THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR THE PRESIDENT

FROM: General Haig

SUBJECT: Signatures requested for attached power of attorney

Attached is a power of attorney (TAB A) for the years 1969 through 1973 to Mr. Dean S. Butler to handle the current controversy about the California tax status.

Mr. Butler issued the opinion letter which we distributed at the press briefing on your finances stating that in his view you were not a resident under California tax laws and, therefore, had no obligation to file the state tax return as President.

RECOMMENDATION:

That you and Mrs. Nixon sign the power of attorney attached at Tab A. (Messrs. Garment, Gemmill and Rose concur in this judgment.)

Attachment

TAB A - Power of Attorney

POWER OF ATTORNEY

Washington, D. C.

By Richard M. and Patricia R. Nixon, Taxpayers

We hereby appoint Mr. Dean S. Butler, Mr. Arthur B. Willis and Mr. John E. Scheifly all of 606 South Olive Street, Los Angeles, California 90014, phone number (213) 620-1650, as attorneys-in-fact to represent the above taxpayers before the California State Franchise Tax Board and any other related agencies with respect to their personal income tax for the calendar years, 1969 to 1973, inclusive.

Said attorneys-in-fact (or any of them) shall, subject to the revocation of this power-of-attorney, have the authority to receive confidential information and the full power to perform on behalf of the above taxpayers the following acts with respect to the above matters: (for example)

To execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in the tax.

To execute consents extending statutory limits for assets or the collection of taxes.

To execute closing agreements under the Revenue and Taxation Code of the State of California.

To delegate authority or substitute another representative.

To execute a waiver of the confidentiality provisions imposed upon the California State Franchise Tax Board by Section 19282 of the California Revenue and Taxation Code.

Copies of all notices and other written communications addressed to the taxpayers should be sent to Mr. Dean S. Butler at 606 South Olive Street, Los Angeles, California 90014, phone: (213) 620-1650.

This power-of-attorney revokes all prior powers-of-attorney and tax information authorizations on file with the California State Franchise Tax Board with respect to the same matters and years covered by this instrument.

Date:

Richard M. Nixon

Patricia R. Nixon

FRANCHISE TAX BOARD

SACRAMENTO



December 7, 1973

Hon. Richard M. and Patricia Nixon
The White House
Washington, D.C. 20500

We understand that the "Coopers & Lybrand" report that you requested indicates that a revocable trust, of which you are the beneficiaries, sold approximately 23 acres of property located in Orange County, California. Sections 17951 and 17952 of the California Revenue and Taxation Code provide for the taxation of nonresident beneficiaries where income is from a California source. Gains realized on the transfer of real property located in this state are considered to be income from a California source.

Section 18405(f) of the Revenue and Taxation Code provides that every trust having gross income of in excess of \$7,000 shall file a tax return. Section 18402 provides that a husband and wife having in excess of \$7,000 in gross income shall file either a joint or separate return.

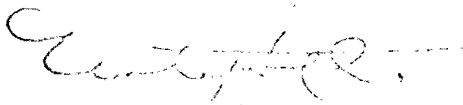
The California Revenue and Taxation Code subjects the entire taxable income of a resident to an income tax. Section 17014(b) of the Code provides that the term "Resident" includes every individual domiciled in this state who is outside the state for a temporary or transitory purpose.

Since you and Mrs. Nixon registered to vote in Orange County, California, on January 6, 1970, it appears that on that date California became your domicile of choice. Accordingly, will you please inform us of the basis for concluding, if such is the case, that you and Mrs. Nixon are outside this state for other than a temporary or transitory purpose.

A review of our files does not disclose a 1970 tax return for either the trust or yourselves. If the required returns have been filed, please advise us as to the name, address and identifying numbers used on the returns.

Please address your response to Martin Huff, Executive Officer, P. O. Box 1468, Sacramento, California 95807 (Perseus Attention). If further information is needed, your representative may contact me by phone at (916) 445-0408.

Your cooperation and prompt attention to this matter will be appreciated.


Executive Officer

FRANCHISE TAX BOARD

SACRAMENTO



December 9, 1973

Hon. Richard M. Nixon
The White House
Washington, D.C. 20500

SUBJECT: California Personal Income Taxes, 1969 - 1972

Subsequent to our previous letter to you, the White House is reported to have issued a series of documents setting forth information respecting your personal finances and tax liabilities. From the media reports of this release, it appears to be your intent to place in the public domain your personal financial and tax affairs. In light of this apparent intent, we would appreciate your written authorization for the California Franchise Tax Board to be relieved of the restrictions of Section 19252 of the California Revenue and Taxation Code; which otherwise would preclude our publicly discussing your state tax affairs under the present circumstances. Because of the White House release and our legal constraints, absent your authorization, we are placed in the unfortunate position of having to uphold the law under very difficult circumstances.

Enclosed is a release which we would appreciate you (or someone holding your power of attorney) signing and returning to us at your earliest convenience.

We would also appreciate your forwarding to us under separate cover a complete set of the series of documents you were reported to have released to the media yesterday and a copy of the Coopers & Lybrand report issued on your behalf.

Communications should be addressed to Martin Huff, Executive Officer, P. O. Box 1468, Sacramento, CA 95807 (Personal Attention).

Your cooperation in these matters is appreciated.

A handwritten signature in cursive script, appearing to read "Martin Huff".

Martin Huff
Executive Officer

Enclosures

CALIFORNIA REVENUE & TAXATION CODE

Part 10. Personal Income Tax

CHAPTER 21. ADMINISTRATION OF TAX

Article 2. Disclosure of Information

19282. Penalty for disclosing information contained in the return.

Except as otherwise provided in this article, it is a misdemeanor for the Franchise Tax Board or any member thereof, or any deputy, agent, clerk, or other officer or employee of the state (including its political subdivisions) who in the course of his or her employment or duty has access to returns, reports, or documents required under this part, to disclose or make known in any manner information as to the amount of income or any particulars set forth or disclosed therein.

To: California State Franchise Tax Board
c/o Martin Ruff, Executive Officer
P. O. Box 1468, Sacramento, CA 95807

I hereby waive the confidentiality provisions imposed upon
the California State Franchise Tax Board by Section 19282
of the California Revenue and Taxation Code with respect
to my tax affairs for the taxable years 1969 through 1972.
Inquiries in regard to my California state income tax
status should be answered by the Franchise Tax Board.

Dated: _____

Richard M. Nixon

LAW OFFICES
WILLIS, BUTLER & SCHEIFLY

HUR B. WILLIS
N. E. SCHEIFLY
W. M. GRANT
S. F. CHILDS, JR.
N. J. BARCAL
WEN W. PHILLIPS
L. S. MILLARD

DEAN S. BUTLER
FRED L. LEYDORF
DUDLEY M. LANG
MICHAEL I. BLAYLOCK
DAVID R. DECKER
CHARLES R. AJALAT

20TH FLOOR
CITY NATIONAL BANK BUILDING
606 SOUTH OLIVE STREET
LOS ANGELES, CALIFORNIA 90014
TELEPHONE (213) 620-1650

August 16, 1973

Coopers & Lybrand
1251 Avenue of the Americas
New York, New York 10020

Gentlemen:

Our office has been requested to address to you our opinion as to whether Richard M. Nixon, the President of the United States, is subject to income tax in the State of California as a "resident" and whether he is thereby obligated to file a California income tax return as a resident.

In our opinion, in the light of the facts and circumstances presented to us, Mr. Nixon is not a "resident" of the State of California as that term is defined in Section 17014 of the California Revenue and Taxation Code. Accordingly, he is not required to file a personal income tax return as a California resident. If Mr. Nixon had sufficient income from California sources, he would be required to file a non-resident return and pay the income tax attributable to such income. We are advised, however, that his income from California sources is not sufficient to require the filing of a non-resident return.

We base this conclusion upon the following facts which have been furnished to us. Richard M. Nixon was a resident and a domiciliary of the State of California for some period of time which apparently extended through the calendar year 1962. In the year 1963, he moved to the State of New York, was thereafter admitted to the New York bar, and engaged in the practice of law in New York City. He sold his previous home in California, closed his bank accounts, and, in every respect, terminated all of his previous connections with the State of California. We are advised that immediately thereafter he commenced voting in New York and undertook all of the normal and usual steps to establish a residence in New York and terminate all of the relationships in California that were associated with his prior resident status. There was no indication of any intention on his part

to return to the State of California. It appears clear that he ceased to be a resident for any purpose in the State of California and became a resident of the State of New York.

He continued to reside and conduct his business in New York until he was inaugurated as the President of the United States on January 20, 1969, and moved with his family from New York to the White House in Washington, D. C. He has continued to occupy the White House and to serve as the President of the United States until the present. We do not have any information concerning any continuing contacts or relationships that he may have with the State of New York and express no opinion regarding the possibility of his continuation or termination of his status as a resident of New York.

After his departure from California in 1963, Mr. Nixon acquired two parcels of real property in California which we will refer to as the Whittier property and the San Clemente property. The Whittier property was the former home of his mother and was purchased by him in 1965. His mother continued to live at that home until her death. We understand that this purchase was for the purpose of making funds available to his mother, while at the same time maintaining the ownership of this property within the family because of its potential value as an investment in an area which is rapidly developing as valuable commercial property. We are advised that the property is being leased on a temporary basis at a rental of \$50.00 per month, and that this represents the only source of income to him from within the State of California.

We understand that Mr. Nixon returned to the State of California in May of 1969 to spend a three-day weekend at San Clemente. This visit was apparently for the purpose of examining the San Clemente property, which was subsequently purchased on July 15, 1969. We understand, according to the press reports at that time, that Mr. Nixon announced that the property was being acquired because of his intention to move to California and become a resident there following the termination of his activities and responsibilities in Washington, D. C. For the purpose of this letter, we have assumed this to be true. The San Clemente property was furnished as a home and on occasion has been occupied by Mr. Nixon and his family for brief periods of time. We understand that this occupancy would not aggregate more than a few weeks in each year since the acquisition. Mr. Nixon also owns residential property in Key Biscayne, Florida, and occupies that property more frequently and for a greater total period of time during each year than the San Clemente property. Although the majority of his time is spent in Washington, D. C., he will

also on occasion go to Camp David, Maryland and, apparently, the amount of time that he spends at Camp David would also exceed the amount of time spent at San Clemente.

Except for the property acquisitions referred to above, the possibility that he may have been elected as an honorary member of some clubs or associations within the State, and the fact that Mr. Nixon has voted in the State of California commencing in 1970, we know of no other contacts, relationships, involvements, or transactions such as bank accounts, business interests, church affiliation or any social connections which would, in the legal sense, identify Mr. Nixon with the State of California.

The term resident or domiciliary is used or applied in many different contexts in the codes of the State of California and in the opinions of the courts of the State of California. Frequently there is a considerable inconsistency in the definition of these terms or in the use of these terms, depending upon the purpose for which a determination is being made. For example, the term "residence" is defined or explained in the Election Code of the State of California, but it is patently obvious from reading the various sections of the Election Code having to do with residence that this does not relate to or control the term "resident" as set forth in the Revenue and Taxation Code. Similarly, in the Government Code of the State of California at Sections 243 and 244 there are provisions relative to residence which again are obviously and clearly inconsistent with the term "resident" in the Revenue and Taxation Code Section. For example, Section 244 of the Government Code provides that there can be only one residence. On the other hand, it is clear from numerous cases and rulings of the State Board of Equalization and the Franchise Tax Board that a person may be a resident in several different places for the purpose of determining his tax status. In Whitell v. Franchise Tax Board (1964 231 Cal. APP 2d 268), the court reviews the confusion with regard to the definitions of "resident" and "domiciliary" and concludes that the definition of resident as set forth in the Revenue and Taxation Code controls the incidence of the personal income tax. Accordingly, for the present purpose, we must direct our attention to the definition of "resident" as set forth in the Revenue and Taxation Code as follows:

"§ 17014. Resident

"Resident" includes:

- (a) Every individual who is in this State for other than a temporary or transitory purpose.
- (b) Every individual domiciled in this State who is outside the State for a temporary or transitory purpose.

Any individual who is a resident of this State continues to be a resident even though temporarily absent from the State."

In view of the fact that Mr. Nixon's visits to California are brief, that he almost invariably announced their duration and returns to Washington at their conclusion, that he spends more time in Maryland and Florida than in California, and that he spends the majority of his time in Washington, D. C., it is evident that Mr. Nixon is not a resident by virtue of subsection (a), since he is not an individual who is in this State for other than a temporary or transitory purpose. It is clear that on any and every occasion when he has been in this State since his departure in 1963, it has been for a clearly temporary and transitory purpose.

The concluding sentence of the above code section provides that an individual who is a resident of this State continues to be a resident even though temporarily absent from the State. While Mr. Nixon was at one time a resident of this State, that status was terminated at the time he moved to New York and commenced the practice of law. His move to New York was clearly not a temporary absence from California. Accordingly, the concluding sentence of the code section has no applicability to Mr. Nixon.

The only part of the above definition which could have any application here is subsection (b), which includes as a resident an "individual domiciled in this State who is outside the State for a temporary or transitory purpose". Even if we were to assume that Mr. Nixon is domiciled in the State of California and even if we further assume that he has an intention to return to the State and become a permanent resident at the conclusion of his present responsibilities and activities elsewhere, we must still conclude, in the light of all of the decided cases, determinations of the State Board of Equalization, the rulings of the Franchise Tax Board, and the opinions of the Attorney General of the State of California, that he is outside the State of California for much more than any temporary or transitory purpose. As President of the United States, it is clear that Mr. Nixon is and must be in the District of Columbia for the discharge of his duties. In 4 U.S.C.A. § 71-72, it is clearly provided that the District of Columbia shall be the permanent seat of the Government of the United States and that all offices attached to the seat of Government shall be exercised in the District of Columbia and not elsewhere.

In considering whether a presence in a State or an absence from a State is merely for a temporary or a transitory purpose, a great variety of facts and circumstances have been considered in the determinations of the State Board of Equalization, in opinions of both the Franchise Tax Board and the Attorney General of the State of California and in cases in the California courts. In reaching our conclusions we have reviewed all of these sources which have come to our attention. Without citing all of these individual sources, we are of the opinion that the taxpayer's absence from the State of California for the years 1969 to the present time is for

Coopers & Lybrand

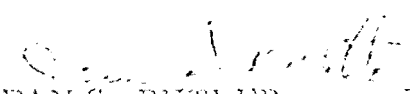
August 16, 1973
Page Five

a purpose that is neither temporary nor transitory as these terms are interpreted by all of the available sources.

Our sources of reference are retained in our files and can be made available if they would be helpful to any purpose. We might, however, refer to a recent determination of the State Board of Equalization, February 26, 1969, identified as the Appeal of Herbert H. and Darlene B. Hooper. There it was determined that the taxpayer's absence from the State of California for a period of seven years in the State of Washington, primarily to complete his education, was not a temporary or transitory absence; and even though the taxpayer was previously a resident of the State of California and apparently a continuing domiciliary with the intention to return to the State of California, he was not a "resident" as defined in the Revenue and Taxation Code.

Based upon the facts stated above, it is our opinion that Mr. Nixon is not a resident of the State of California for the purpose of determining his obligations for personal income tax and we, therefore, conclude that he is not obligated to file a resident income tax return for the period from 1969 until the present time.

Yours sincerely,


DEAN S. BUTLER

DSB:cmn