

Trump's Tax Returns Won't Answer Every Question, Experts Say

By

[Jonathan Curry](#)

Donald Trump's refusal to release his tax returns has prompted intense speculation about what they would reveal about him, but some experts suggest that it might not be as much as some hope.

The Republican presidential nominee's opponents have seized on the mystery of what might be hidden in his returns. At a June 21 campaign rally in Ohio, Democratic presidential nominee Hillary Clinton wondered, "What's he afraid of? Maybe that we'll learn he hasn't paid taxes on his huge income. Or maybe he isn't as rich as he claims. Or that he hasn't given as much away to charity as he brags about. Whatever the reason, Americans deserve to know before this November."

Clinton's running mate, Sen. Tim Kaine, D-Va., has since taken up the challenge. Conservative commentator George F. Will has also joined the speculation, suggesting Trump's tax returns might reveal evidence of financial ties to Russian oligarchs. (Prior coverage ) And billionaire Warren Buffett on August 1 said that if Trump releases his tax returns he would follow suit, while also challenging the candidate's rationalization not to release returns while under audit. "He's not afraid of the IRS. He's afraid of you," Buffett told a crowd at a Clinton rally.

But what might the released returns actually reveal? The question hinges on what tax documents Trump decides to release, according to Joshua Blank, director of the New York University School of Law's graduate tax program. Trump may choose to release only the first two pages of Form 1040, for which there is historical precedent, he told Tax Analysts.

Trump's former opponents in the Republican presidential primary Sen. Ted Cruz of Texas, Sen. Marco Rubio of Florida, and Ohio Gov. John Kasich each only released the first two pages. Likewise, in 2000 and 2001, President George W. Bush and Vice President Dick Cheney did not release their full returns. (For more details on past presidential tax returns, see Tax Analysts' Tax History Project at <http://www.taxhistory.org/>.)

"It sometimes has surprised me when candidates have released the first two pages and then there's like a collective sigh of relief like that's great," said Robert W. Wood of Wood LLP. These two pages of the Form 1040 "are fairly cryptic," he said.

'Fair Share'

But even if the two pages of the Form 1040 are all that Trump makes public, that information

would still be politically relevant, as Trump's opponents on the Democratic presidential ticket have accused him of not paying his "fair share" of taxes.

If Trump were to release only those pages, it would at least reveal how much he pays in federal individual income tax as well as the types of income he reports, such as income from capital gains, dividends, or ordinary income, Blank said.

Those two pages would reveal what his effective tax rate is, and it's possible he pays very little in taxes on his income. *The Washington Post* reported May 21 that Trump's tax returns for 1978 and 1979 were in a 1981 report by New Jersey state gambling regulators, and those two returns indicated he paid no federal income taxes for either year.

Trump himself said in a May 13 interview on ABC's *Good Morning America*, "I fight very hard to pay as little tax as possible." (Prior coverage [1](#).)

Trump has also said recently that he thinks 2012 Republican nominee Mitt Romney lost the election because he released his tax returns. Romney's 2010 and 2011 tax returns revealed he paid only a 14 percent average tax rate despite making millions, which Democrats used to attack him. (Prior coverage [1](#).)

But Blank also warned that the information on Trump's returns about his effective tax rate could be manipulated. Theoretically, a taxpayer could report on his 2015 tax return that he paid \$60 million in federal income taxes, and then in 2016 he could request a refund from the IRS for \$30 million, Blank said.

"If somebody wants to make it appear that they're paying tax, they could do that," Blank said. "You file for refunds after you file your tax returns," he said, noting that more years' worth of tax returns would be more revealing. Still, taxpayers would not know what Trump decides to do on future tax returns, after the election, he added.

Net Worth

Trump has repeatedly touted his wealth as a selling point for his candidacy, saying in July 2015 that his net worth was in excess of \$10 billion, and some have speculated that Trump's actual net worth would be revealed by his tax returns.

That would be a mistake, several observers told Tax Analysts.

"We can only very indirectly use his tax returns to infer his net worth. Even the wealthiest people can have tax years where they report very low income," said Neil H. Buchanan, tax law professor at George Washington University.

While tax lawyers and journalists could try to come up with rough estimates of how much his investments are yielding, "the ranges would be large enough that I don't think anybody could say for sure he's not the billionaire he claims he is," Buchanan said.

"There's so many missing pieces of that puzzle . . . it would have to be something really extreme, like the lack of any income at all from anything other than *The Apprentice* and his books," Buchanan said. He added that if Trump were reporting little or no income from financial investments, that may raise some questions, but even then "it would absolutely not be definitive

proof of anything."

Blank agreed that tax returns show little about someone's net worth -- an argument Trump himself has made. "The document is an income tax return, not a wealth return," Blank said. "If you hold lots of valuable real estate, whether it's land or buildings or other types of property, simply because you hold that property does not mean that that information will be reported on an annual income tax return."

John R. Brooks, professor of law at Georgetown University Law Center, also was skeptical that tax returns could be used to determine Trump's wealth. "I think it could give a general idea, but . . . I think there's probably going to be enough aggressive tax planning that it will be difficult to know what the true economic reality is," he said.

"The income number is not nothing. It just might not be the final answer on these things that really captivates people," Brooks said.

International Man of Mystery

As the speculation over Trump's business connections to Russian leaders has swirled, it has been suggested by some, like Will, that Trump's tax returns would provide insight into this side of Trump's finances.

If Trump only releases the two pages of the Form 1040, it would be "difficult, almost impossible, to understand where he is receiving his income from," Blank said. And even if he releases his full returns, a definitive answer may remain elusive.

Blank said that while the underlying schedules to the Form 1040 require taxpayers to describe sources of income, "this information is manipulable." Trump could be receiving income from a partnership or entity whose investors remain unidentified, and if he wanted to make it difficult to identify the source of income, he could use "blocker entities" or other methods, Blank said.

An enterprising journalist or the IRS could do research to try to understand who is behind the source of income, Blank said, but "just by looking at the information on the return it may not be possible to determine the ultimate source of that income."

Looking at Trump's tax returns "isn't forensic accounting," Brooks said. "It's stuff that's self-reported." He added, "He is reluctant to release them for some reason, but I assume he's still relatively careful about what he reports and how. I don't expect we'll see payments from Vladimir Putin."

Likewise, Buchanan said that if Trump does have financial ties to Russians, "either you couldn't find them on the returns, if they're a real bombshell," or they'll be "unlikely to trip him up."

Philanthropist

The question of how much Trump gives to charity is one that has taken on more significance recently, as investigations earlier this year by *The Washington Post* have suggested that Trump may not be as charitable as he says he is.

How much Trump gives to charity could be determined from Trump's tax returns, Blank said, but only if he releases more than the first two pages of his Form 1040. That form's Schedule A, which requires taxpayers to list their charitable contributions, would also need to be released, Blank said.

However, he cautioned that this still may not be definitive proof of exactly how much Trump gives to charity. While it might look bad if there are few charitable contributions listed, Trump could plausibly say he does in fact give lots of money to charity, it's just that he chooses not to claim it as a tax deduction, Blank said.

Successful Businessman

Political opponents have hoped to use Trump's tax returns to determine whether his businesses are successful, but this method also has its limitations.

"I think they are going to be relevant, but they're not going to have the whole answer," Brooks said, adding, "They're not financial statements. We know how different tax accounting is from book accounting. It would maybe give a picture, or an impression, but I doubt it would give much more than that."

Buchanan also said that tax returns will only tell you how much income someone like Trump is making from his business entities; they do not reveal the underlying businesses' success. Trump also likely makes a large portion of his income from licensing his brand, so depending on the deal, a business that's failing could still be paying him royalties, while a successful business might not be paying him any royalties, Buchanan said.

Should He or Shouldn't He?

Wood said that while there may be political risks to not releasing his returns, from the perspective of a tax lawyer, "it strikes me as obvious that he shouldn't release anything . . . I think anybody should see, certainly tax people, everybody would be going over these things. Lots of people would pile on and if there is stuff that can be attacked, which surely there is, people would attack it, and the IRS could well get ideas that it didn't already have." Even Trump's past tax returns would be at risk of facing additional scrutiny from the IRS, Wood said. Although the normal statute of limitations for tax audits is three years, some items are open for six years. Furthermore, taxpayers or entities with complicated tax returns often have many years that are "open by consent."

"The IRS does have a habit when it's auditing of saying to taxpayers, individuals, and entities, 'We can't finish our audit of X years, and the statute [of limitations] is coming up, and we either have to issue a notice of deficiency to protect the IRS's position, or we have to have a voluntary extension of the statute,'" Wood explained.

Wood also noted that tax advisers will "almost uniformly recommend that the taxpayer agree to the extension," adding, "All of the tax arguments seem to line up firmly in favor of Trump probably [releasing] nothing."

Blank and Buchanan disagreed.

"The IRS has experts who are quite skilled at reviewing the returns, so it's unlikely that the IRS needs the help of the public to understand the tax return," Blank said. He acknowledged that the IRS benefits from whistleblowers and people who provide them with leads, but those are cases in which they don't know about an individual or activity. The IRS already knows about and is auditing Trump, he said.

Buchanan said he thought the audit exposure concerns were overblown. "That's just not the way the IRS works. It's not like they engage in public notice and comment periods on things that are under audit," he said, adding, "He puts himself at zero extra danger from a worse outcome on his current audit from this release."