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Trump Tax Returns Are No Holy Grail

How much does the American public care about Trump's tax returns? He is running for President, so the conventional answer is that [Trump should release them](#). There is no legal requirement that he do so, but it is unheard of not to release them. Still, some people care a lot, and the latest entrant into this crowded field is Warren Buffett. He has now [challenged Trump: I'll show my tax returns if you'll show yours](#). Buffett is under audit too.

It is hard to imagine that challenge will work, since Donald Trump is not your usual candidate. Maybe the break from tradition smarts the most, the fact he can say just about anything and move on. Trump has [said he has "very big" tax returns](#): "I'm sure you've seen the picture where the returns are literally from the floor to up to here. They're extremely complex." He has also said that his financials "show I'm worth more than \$10 billion by any stretch of the imagination." But maybe they don't, and tax returns probably wouldn't show his net worth in any event.



His audit defense is a pretty good one, whatever the IRS or the public might say. A [letter](#) from Trump's tax lawyers confirmed there was an ongoing tax

audit for 2009 and later. The letter also said 2002 through 2008 tax years were but closed, but even closed years could be impacted. It is one thing to have a few IRS auditors reviewing the returns and proposing upward adjustments. It is quite another to having the *entire world* pick them apart and give the IRS new ideas.

If Trump did hand them over—which he probably will not—what would they show? Just get out a Form 1040 and have a look. The first two pages of a tax return aren't all that helpful. Some candidates provide only the first two pages of a tax return, not the whole enchilada. If Trump did that, what would they show?

They wouldn't show his net worth. Tax returns are about income for one year. They do not show an individual's net worth, not even Donald Trump's. They show income, but some years he may have a loss. He could still rake in millions and have a tax loss. In fact, having a tax loss can be attractive. You let non-cash losses (for example, from partnerships) offset your cash income items. That's efficient. Still, it might make Trump look smaller than he wants to look.

Tax returns also won't show market values. Many real estate people get rich with appreciation in value that is not currently taxed. If Mr. Trump buys a building for \$50M and it goes up in value to \$200M, that \$150M gain isn't booked or taxed until it is sold. It doesn't really show up until he sells.

The tax returns might show big write-offs. Large income (say from rents, royalties, commissions), may be sheltered with big depreciation deductions. Depreciation is that assumed erosion in value that occurs every year. It's a tax concept, more than it is a real economic one. As a building is *appreciating* in real dollar value, Mr. Trump can write-off a piece of its value every year as if it were going *down* in value.

The tax returns will show effective tax rates, and that could hurt. It sure hurt Mitt Romney, but then Romney is no Trump. A low effective tax rate wouldn't hurt Warren Buffett if he ran. Buffett would say that the tax law should be changed so he has to pay more. Trump probably wouldn't say that, but he could.

Trump's effective tax rates may also not be too high. Trump echoes Warren Buffett and many other tax-savvy investors in saying that he pays as little tax as he can. Most of Mr. Trump's income is probably not ordinary income taxed at 39.6%. Most may be capital gain taxed at 20% (plus maybe the 3.8%

Obamacare tax). If that is so, that could grate on some of his supporters.

They would show charitable giving. But again, if only the first two pages of the returns were released, there would be no detail. Charitable contribution deductions go on Schedule A. It is possible that Trump's tax returns will reveal that he is not generous generally, or not generous specifically with respect to causes—like Veterans—that Mr. Trump suggests he supports.

Connections? These would not be apparent unless complete tax returns and schedules were released, and perhaps not even then. Ted Cruz once suggested that Trump's returns may show [mafia ties](#). More recently, there is all the Putin and Russian oligarch discussion. But we don't know.

Perhaps Mr. Trump's returns are aggressive, taking positions that get whittled down and compromised in the audits Trump complains have been perennial. But if his 'art of the deal' applies to his taxes, will that hurt his image with his followers? It doesn't seem likely. That could be one of the [top 10 reasons Trump should not release](#) them.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.