



## Robert W. Wood

THE TAX LAWYER

---

TAXES 2/29/2016

### Trump Taxes Won't Reveal Fruit Salad Of His Life

Donald Trump has defied the odds again with his shifting tax audit explanations. The Un-Candidate got past his Pope flap. His Build-a-Wall comments poll well. Even his keep-out-Muslims rhetoric seemed to work. Is it any wonder that having Mitt Romney jabbing at him over tax returns seems to help Trump rather than hurt him? Serious candidates and serious commentators are no-doubt right that it is just 'not on' for Trump to fail to release his tax returns. Every candidate does it, though Trump's fan base may not be bothered.

Trump might also get a *boost* from the comments of the IRS Commissioner himself saying the returns can be released. Of course, 'can' and 'should' are different. Virtually all tax lawyers are saying that the *tax-smart* thing is for Trump *NOT* to release the returns until his audit is over. 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 lots of new ideas. From a tax viewpoint, that would not be smart.



(Photo by Tom Pennington/Getty Images)

Yet politics is another matter, with very different rules. Trump is running for President, after all. The conventional answer is that [Trump should release his tax returns](#). But *this* is a candidate who turns convention on its head. Besides, who knows what Trump's advisers are saying—or whether Trump is listening. But will the tax returns once they are eventually released reveal [the fruit salad of Mr. Trump's life](#)?

Probably not. Dr. Ben Carson's Biblical, 'By their fruit, you will know them,' suggested picking Supreme Court Justices by the fruit salad of their life. Tax returns can hardly do that. In fact, perhaps Trump's tax returns will not tell us much we don't already know about Mr. Trump. We know he is rich, but he seems to frequently argue that he is richer than we think he is. That may mean the pieces of fruit salad on his tax returns may be less impressive than he might like.

Reports say he has more than two hundred entities. He says his returns are huge. They probably are. They also probably show a lot less of what we might call hard income than he may want us to see. Real estate people famously 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.

Real estate people famously get great tax write-offs too. For that reason, even lots of income (say from rents, royalties, commissions), gets 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 the 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.

Mr. Trump's effective tax rates may also not be too high. He says that he pays as little tax as he can, echoing Warren Buffett and many other tax-savvy investors. 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.

And then there are the charity issues. It is possible that his 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. And then there are other assorted speculations. Ted Cruz suggests that Trump's returns may show his mafia connections, perhaps [including 'bombshell,' mafia ties](#). That's a pretty wild suggestion, even for Mr. Cruz. If it turned out to be true, it could perhaps be in the fruit salad category, a kind of offer you

can't refuse.

Perhaps Mr. Trump's returns are aggressive, taking positions that he may assume may get whittled down and compromised in the audits he 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.

*For alerts to future tax articles, email me at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not legal advice.*