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Donald Trump Tax Records Show He Could Have Avoided Taxes for Nearly Two Decades, The Times Found

By DAVID BARSTOW, SUSANNE CRAIG, RUSS BUETTNER and MEGAN TWOHEY OCT. 1, 2016

Donald J. Trump declared a $916 million loss on his 1995 income tax returns, a tax deduction so substantial it could have allowed him to legally avoid paying any federal income taxes for up to 18 years, records obtained by The New York Times show.

The 1995 tax records, never before disclosed, reveal the extraordinary tax benefits that Mr. Trump, the Republican presidential nominee, derived from the financial wreckage he left behind in the early 1990s through mismanagement of three Atlantic City casinos, his ill-fated foray into the airline business and his ill-timed purchase of the Plaza Hotel in Manhattan.

Tax experts hired by The Times to analyze Mr. Trump's 1995 records said that tax rules especially advantageous to wealthy filers would have allowed Mr. Trump to use his $916 million loss to cancel out an equivalent amount of taxable income over an 18-year period.

Although Mr. Trump's taxable income in subsequent years is as yet unknown, a $916 million loss in 1995 would have been large enough to wipe out more than $50 million a year in taxable income over 18 years.

The $916 million loss certainly could have eliminated any federal income taxes Mr. Trump otherwise would have owed on the $50,000 to $100,000 he was paid for each episode of "The Apprentice," or the roughly $45 million he was paid between 1995 and 2009 when he was chairman or chief executive of the publicly traded company he created to assume ownership of his troubled Atlantic City casinos. Ordinary investors in the new company, meanwhile, saw the value of their shares plunge to 17 cents from $35.50, while scores of contractors went unpaid for work on Mr. Trump's casinos and casino bondholders received pennies on the dollar.

"He has a vast benefit from his destruction" in the early 1990s, said one of the experts, Joel Rosenfeld, an assistant professor at New York University's Schack Institute of Real Estate. Mr. Rosenfeld offered this description of what he would advise a client who came to him with a tax return like Mr. Trump's: "Do you realize you can create $916 million in income without paying a nickel in taxes?"

Mr. Trump declined to comment on the documents. Instead, the campaign released a statement that neither challenged nor confirmed the $916 million loss.

"Mr. Trump is a highly-skilled businessman who has a fiduciary responsibility to his business, his family and his employees to pay no more tax than legally required," the statement said. "That being said, Mr. Trump has paid hundreds of millions of dollars in property taxes, sales and excise taxes, real estate taxes, city taxes, state taxes, employee taxes and federal taxes."

The statement continued, "Mr. Trump knows the tax code far better than anyone who has ever run for President and he is the only one that knows how to fix it."

Separately, a lawyer for Mr. Trump, Marc E. Kasowitz, emailed a letter to The Times arguing that publication of the records is illegal because Mr. Trump has not authorized the disclosure of any of his tax returns. Mr. Kasowitz threatened "prompt initiation of appropriate legal action."

Mr. Trump's refusal to make his tax returns public — breaking with decades of tradition in presidential contests — has emerged as a central issue in the campaign, with a majority of voters saying he should release them. Mr. Trump has declined to do so, and has said he is being audited by the Internal Revenue Service.

At last Monday's presidential debate, when Hillary Clinton suggested Mr. Trump was refusing to release his tax returns so voters would not know "he's paid nothing in federal taxes," and when she also pointed out that Mr. Trump had once revealed to casino regulators that he paid no federal income taxes in the late 1970s, Mr. Trump retorted, "That makes me smart."

The tax experts consulted by The Times said nothing in the 1995 documents suggested any wrongdoing by Mr. Trump, even if the extraordinary size of the loss he declared would have probably attracted extra scrutiny from I.R.S. examiners. "The I.R.S., when they see a negative $916 million, that has to pop out," Mr. Rosenfeld said.

The documents examined by The Times represent a small fraction of the voluminous tax returns Mr. Trump would have filed in 1995.

The documents consisted of three pages from what appeared to be Mr. Trump's 1995 tax returns. The pages were mailed last month to Susanne Craig, a reporter at The Times who has written about Mr. Trump's finances. The documents were the first page of a New York State resident income tax return, the first page of a New Jersey nonresident tax return and the first page of a Connecticut nonresident tax return. Each page bore the names and Social Security numbers of Mr. Trump and Marla Maples, his wife at the time. Only the New Jersey form had what appeared to be their signatures.

The three documents arrived by mail at The Times with a postmark indicating they had been sent from New York City. The return address claimed the envelope had been sent from Trump Tower.

On Wednesday, The Times presented the tax documents to Jack Mitnick, a lawyer and certified public accountant who handled Mr. Trump's tax matters for more than 30 years, until 1996. Mr. Mitnick was listed as the preparer on the New Jersey tax form.

Mr. Mitnick, 80, now semiretired and living in Florida, said that while he no longer had access to Mr. Trump's original returns, the documents appeared to be authentic copies of portions of Mr. Trump's 1995 tax returns. Mr. Mitnick said the signature on the tax preparer line of the New Jersey tax form was his, and he readily explained an obvious anomaly in the way especially large numbers appeared on the New York tax document.

A flaw in the tax software program he used at the time prevented him from being able to print a nine-figure loss on Mr. Trump's New York return, he said. So, for example, the loss of "-915,729,293" on Line 18 of the return printed out as "5,729,293." As a result, Mr. Mitnick recalled, he had to use his typewriter to manually add the "-91," thus explaining why the first two digits appeared to be in a different font and were slightly misaligned from the following seven digits.

"This is legit," he said, stabbing a finger into the document.

Because the documents sent to The Times did not include any pages from Mr. Trump's 1995 federal tax return, it is impossible to determine how much he may have donated to charity that year. The state documents do show, though, that Mr. Trump declined the opportunity to contribute to the New Jersey Vietnam Veterans' Memorial Fund, the New Jersey Wildlife Conservation Fund or the Children's Trust Fund. He also declined to contribute $1 toward public financing of New Jersey's elections for governor.

The tax documents also do not shed any light on Mr. Trump's claimed net worth of about $2 billion at that time. This is because the complex calculations of business deductions that produced a tax loss of $916 million are a separate matter from how Mr. Trump valued his assets, the tax experts said.

Nor does the $916 million loss suggest that Mr. Trump was insolvent or effectively bankrupt in 1995. The cash flow generated by his various businesses that year was more than enough to service his various debts.

But fragmentary as they are, the documents nonetheless provide new insight into Mr. Trump's finances, a subject of intense scrutiny given Mr. Trump's emphasis on his business record during the presidential campaign.

The documents show, for example, that while Mr. Trump reported $7.4 million in interest income in 1995, he made only $6,108 in wages, salaries and tips. They also suggest Mr. Trump took full advantage of generous tax loopholes specifically available to commercial real estate developers to claim a $15.8 million loss in 1995 on his real estate holdings and partnerships.

But the most important revelation from the 1995 tax documents is just how much Mr. Trump may have benefited from a tax provision that is particularly prized by America's dynastic families, which, like the Trumps, hold their wealth inside byzantine networks of partnerships, limited liability companies and S corporations.

The provision, known as net operating loss, or N.O.L., allows a dizzying array of deductions, business expenses, real estate depreciation, losses from the sale of business assets and even operating losses to flow from the balance sheets of those partnerships, limited liability companies and S corporations onto the personal tax returns of men like Mr. Trump. In turn, those losses can be used to cancel out an equivalent amount of taxable income from, say, book royalties or branding deals.

Better still, if the losses are big enough, they can cancel out taxable income earned in other years. Under I.R.S. rules in 1995, net operating losses could be used to wipe out taxable income earned in the three years before and the 15 years after the loss. (The effect of net operating losses on state income taxes varies, depending on each state's tax regime.)

The tax experts consulted by The Times said the $916 million net operating loss declared by Mr. Trump in 1995 almost certainly included large net operating losses carried forward from the early 1990s, when most of Mr. Trump's key holdings were hemorrhaging money. Indeed, by 1990, his entire business empire was on the verge of collapse. In a few short years, he had amassed $3.4 billion in debt — personally guaranteeing $832 million of it — to assemble a portfolio that included three casinos and a hotel in Atlantic City, the Plaza Hotel in Manhattan, an airline and a huge yacht.

Reports that year by New Jersey casino regulators gave glimpses of the balance sheet carnage. The Trump Taj Mahal casino reported a $25.5 million net loss during its first six months of 1990; the Trump's Castle casino lost $43.5 million for the year.

His airline, Trump Shuttle, lost $34.5 million during just the first six months of that year.

“Simply put, the organization is in dire financial straits,” the casino regulators concluded.

Reports by New Jersey’s casino regulators strongly suggested that Mr. Trump had claimed large net operating losses on his taxes in the early 1990s. Their reports, for example, revealed that Mr. Trump had carried forward net operating losses in both 1991 and 1993. What’s more, the reports said the losses he claimed were large enough to virtually cancel out any taxes he might owe on the millions of dollars of debt that was being forgiven by his creditors. (The I.R.S. considers forgiven debt to be taxable income.)

But crucially, the casino regulators redacted the precise size of the net operating losses in the public versions of their reports. Two former New Jersey officials, who were privy to the unredacted documents, could not recall the precise size of the numbers, but said they were substantial.

Politico, which previously reported that Mr. Trump most likely paid no income taxes in 1991 and 1993 based on the casino commission’s description of his net operating losses, asked Mr. Trump to comment. “Welcome to the real estate business,” he replied in an email.

Now, thanks to Mr. Trump’s 1995 tax records, the degree to which he spun all those years of red ink into tax write-off gold may finally be apparent.

Mr. Mitnick, the lawyer and accountant, was the person Mr. Trump leaned on most to do the spinning. Mr. Mitnick worked for a small Long Island accounting firm that specialized in handling tax issues for wealthy New York real estate families. He had long handled tax matters for Mr. Trump’s father, Fred C. Trump, and he said he began doing Donald Trump’s taxes after Mr. Trump turned 18.

In an interview on Wednesday, Mr. Mitnick said he could not divulge details of Mr. Trump’s finances without Mr. Trump’s consent. But he did talk about Mr. Trump’s approaches to taxes, and he contrasted Fred Trump’s attention to detail with what he described as Mr. Trump's brash and undisciplined style. He recalled, for example, that when Donald and Ivana Trump came in each year to sign their tax forms, it was almost always Ivana who asked more questions.

But if Mr. Trump lacked a sophisticated understanding of the tax code, and if he rarely showed any interest in the details behind various tax strategies, Mr. Mitnick said he clearly grasped the critical role taxes would play in helping him build wealth. "He knew we could use the tax code to protect him," Mr. Mitnick said.

According to Mr. Mitnick, Mr. Trump's use of net operating losses was no different from that of his other wealthy clients. "This may have had a couple extra digits compared to someone else's operation, but they all benefited in the same way," he said, pointing to the $916 million loss on Mr. Trump's tax returns.

In "The Art of the Deal," his 1987 best-selling book, Mr. Trump referred to Mr. Mitnick as "my accountant" — although he misspelled his name. Mr. Trump described consulting with Mr. Mitnick on the tax implications of deals he was contemplating and seeking his advice on how new federal tax regulations might affect real estate write-offs.

Mr. Mitnick, though, said there were times when even he, for all his years helping wealthy New Yorkers navigate the tax code, found it difficult to face the incongruity of his work for Mr. Trump. He felt keenly aware that Mr. Trump was living a life of unimaginable luxury thanks in part to Mr. Mitnick's ability to relieve him of the burden of paying taxes like everyone else.

"Here the guy was building incredible net worth and not paying tax on it," he said.

Steve Eder and Patricia Cohen contributed reporting. Kitty Bennett contributed research.

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