



THE ANDREW MELLON CASE

Lesson Plan for Grades II-12

The Christian Science Monitor: Playing the IRS Card: Six Presidents Who Used the IRS to Bash Political Foes

May 17, 2013 – By Gail Russell Chaddock

The Obama administration isn't the first to face criticism of using the Internal Revenue Service as a political hit squad. Since the advent of the federal income tax about a century ago, several presidents – or their zealous underlings – have directed the IRS to turn its formidable police powers on political rivals.

As President Coolidge's Treasury secretary, Andrew Mellon ordered an IRS audit of a rival, only to find the Franklin Roosevelt administration, later, doing the same to him. President Nixon was caught on tape ordering IRS field audits of dozens of people deemed to be his political enemies. In other cases, a direct line of accountability to the president is not so clear. But whether directly ordered by a president or not, the IRS field audit has long been an option that gives new meaning to the term "bully pulpit."

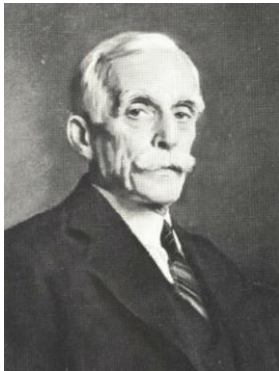
Here's how six administrations played the IRS card.



Manuel Balce Ceneta/AP/File

The Internal Revenue Service headquarters is located in the Washington, D.C., Federal Triangle complex. The IRS is under investigation by the FBI following revelations that it singled out conservative political groups for special tax scrutiny. Several presidents have used the IRS to harass political opponents.

1. President Calvin Coolidge (R)



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Andrew Mellon, Treasury secretary under President Coolidge, used the tax code to target a political rival: Sen. James Couzens (R) of Michigan. The tactic



THE ANDREW MELLON CASE

Lesson Plan for Grades II-12

eventually backfired on Mellon, but it set a precedent for future administrations to use the IRS to attack political adversaries.

There's no evidence that President Coolidge personally directed the IRS to punish political enemies. But his Treasury secretary – banker and industrialist Andrew Mellon – had no such scruples. Secretary Mellon's target was Sen. James Couzens (R) of Michigan, a former general manager of the Ford Motor Co. and a fellow millionaire who launched a congressional probe of tax rebates given to Mellon companies during World War I. The investigation revealed that Mellon had misrepresented the extent to which he was still involved in the management of his own companies, such as Alcoa, prompting calls for his resignation on the eve of the 1924 presidential vote.

After Coolidge was reelected, the Treasury under Mellon reopened the senator's 1919 tax return and ordered Couzens to pay \$11 million in back taxes. But that wasn't the end of it. An appeals board eventually reversed that outcome and concluded that, in fact, Couzens was entitled to a refund. "This decision was the greatest humiliation Mellon had yet suffered at the Treasury," wrote biographer David Cannadine.

However, the incident set a template for future administrations for using the tax code to attack political opponents – a weapon that would be turned against Mellon himself in the Roosevelt administration.

2. President Franklin Roosevelt (D)



AP/File

President Franklin Roosevelt, pictured giving a radio address in 1933, used the IRS to investigate the financial records of former Treasury Secretary Andrew Mellon. Roosevelt called Mellon 'the master mind among the malefactors of great wealth.'

President Roosevelt used the IRS against a host of political rivals and business opponents, ranging from populist Sen. Huey Long (D) of Louisiana, United Mine Workers leader John Lewis, Rep. Hamilton Fish (R) of New York, Chicago Tribune publisher Robert "Colonel" McCormick, Philadelphia Inquirer publisher Moses Annenberg (a fierce opponent of the New Deal), and, most famously, former Treasury Secretary Andrew Mellon.

The Roosevelt administration focused the IRS and an army of tax inspectors and prosecutors on Mellon's financial records, especially whether deductions



THE ANDREW MELLON CASE

Lesson Plan for Grades II-12

for his vast philanthropic activities amounted to tax evasion. Even after IRS agents found nothing irregular, the Justice Department pursued the investigation. Historians have found no documents explaining the Roosevelt administration's focus on Mellon, but a comment Roosevelt made about him in 1926 may offer a clue: Roosevelt dubbed him "the master mind among the malefactors of great wealth."

A federal grand jury declined to indict Mellon for tax fraud in 1934. But the IRS was still pursuing claims against Mellon for at least \$3 million in back taxes. Mellon's storied "tax trial" before the Board of Tax Appeals in Pittsburgh and Washington lasted 14 months. At a private meeting with Roosevelt during the trial in 1936, Mellon offered to build the National Gallery and endow it with his own collection. Roosevelt accepted the offer, but instructed federal prosecutors to make "no change whatsoever" in the government's position on the Mellon tax case, according to Mellon biographer David Cannadine. Mellon died the next year, and the suits, including any against his estate, died with him.

"Although Richard Nixon was notorious for treating the I.R.S. as though it were his private domain, the records show that Franklin Delano Roosevelt may have set the stage for the use of the tax agency for political purposes by most subsequent Presidents," writes former New York Times reporter David Burnham, author of "A Law Unto Itself: Power, Politics, and the IRS."

3. President John Kennedy (D)



AP/File

President John Kennedy (r.) confers with his brother and Attorney General Robert Kennedy at the White House in 1962. The Kennedys used the IRS to attack criminal racketeers as well as political enemies including 'right-wing extremist groups.'

When Robert Kennedy, as chief counsel of the Senate Select Committee on Improper Activities in Labor and Management, went after Teamsters leader Jimmy Hoffa in the late 1950s, he called 1,500 witnesses and generated 20,000 pages of testimony, but failed to produce a conviction. As attorney general in the Kennedy administration, he immediately established an elite "Get Hoffa" squad in the Justice Department, including tapping the IRS to add tax evasion to the arsenal against Mr. Hoffa.



THE ANDREW MELLON CASE

Lesson Plan for Grades II-12

IRS investigators were directed to give top priority to the tax affairs of major racketeers, who would be "subjected to the 'saturation type' investigation," according to Kennedy biographer Arthur Schlesinger Jr., including wiretapping by the IRS. This higher profile for the IRS in targeted criminal investigations raised questions at the time from legal experts who said that the purpose of tax laws was to "collect revenue, not criminals," and that audits should be random.

Moreover, the use of the IRS to target criminals soon expanded to include political enemies, as well. In November 1961, President Kennedy turned to the IRS to challenge the tax-exempt status of "right-wing extremist groups," as well as fundamentalist Christian ministers who had been critical of a Roman Catholic running for the presidency. "I don't think that the Federal Government can interfere or should interfere with the right of any individual to take any position he wants," Kennedy said a press briefing. "The only thing we should be concerned about is that it does not represent a diversion of funds which might be taxable.... I am sure the Internal Revenue system examines that."

In a move not made public at the time, the Kennedy administration established an "Ideological Organizations Audit project" within the IRS, which targeted conservative groups, such as the John Birch Society. In November, the IRS launched audits of 22 "extremist organizations," several of which lost their tax-exempt status, jeopardizing their fundraising.

4. President Richard Nixon (R)



AP/File

President Richard Nixon hands a pen to a staff member after signing a bill in 1971. He used tax audits to target antiwar groups, civil rights groups, reporters, and Democratic politicians.

President Nixon took the Kennedy-era IRS political strike force and redirected it to target left-wing groups. But Nixon appears to have targeted a wider range of "enemy" groups for tax audits, including antiwar groups (and the churches and other nonprofits that sheltered them), civil rights groups, reporters, and prominent Democrats.

Moreover, as a result of Watergate investigation (1973-4) and, especially, the disclosure of White House tapes, many of these activities became public. The



THE ANDREW MELLON CASE

Lesson Plan for Grades II-12

tapes provided a direct line of accountability from the IRS to the Oval Office that was often missing in previous administrations.

Nixon is unambiguous: He directs aides to use the IRS to get back at political enemies. In a taped conversation on Sept. 8, 1971, Nixon tells his chief domestic policy adviser, John Ehrlichman, to direct the IRS to audit potential Democratic rivals, including Sens. Hubert Humphrey of Minnesota, Edward Kennedy of Massachusetts, and Edmund Muskie of Maine.

"Are we going after their tax returns? I ... you know what I mean? There's a lot of gold in them thar hills," Nixon said.

The House Judiciary Committee noted Nixon's abuse of the IRS in its Articles of Impeachment, charging that Nixon "acting personally and through his subordinates and agents, endeavoured to obtain from the Internal Revenue Service, in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law, and to cause, in violation of the constitutional rights of citizens, income tax audits or other income tax investigations to be initiated or conducted in a discriminatory manner."

5. President Bill Clinton (D)



Andy Nelson/The Christian Science Monitor/File

President Bill Clinton denied using the IRS to attack his political enemies, including those involved in the Whitewater investigation. But some critics say that there was a pattern of tax audits being used as political retaliation during his administration.

President Clinton, himself the target of one of the most costly and lengthy investigations in US history, denied using the IRS against political enemies, especially those involved in the Whitewater probe.

"We may do some dumb things from time to time, but we are not certifiably insane," said his White House press spokesman, Mike McCurry. "The IRS and the IRS solely is the one that makes decisions about the enforcement of tax laws."

Still, the list of Clinton accusers who faced tax audits – some immediately after going public with their accusations – suggests a pattern of political retaliation, even if not personally directed by the president, critics say.

These included many figures involved in the Whitewater investigation, as well as women who accused the president of sexual harassment or rape (Paula



THE ANDREW MELLON CASE

Lesson Plan for Grades II-12

Jones and Juanita Broadrick) or who alleged sexual affairs (Gennifer Flowers and Liz Ward Gracen). They included Billy Dale, whose firing as director of the White House travel office set off a firestorm of congressional criticism; FOX News analyst Bill O'Reilly, a critic who complained of being audited three times during the Clinton presidency; and the watchdog group Judicial Watch, which filed more than 50 lawsuits against the Clinton administration.

Investigators never found evidence akin to the Nixon tapes to prove the audits were tied to the Clinton White House. But conservative critics highlight a memo on Mr. Dale in which White House Associate Counsel William Kennedy is quoted saying that the IRS is "on top of it."

"The fact is, the White House in this case misused the IRS and the FBI in an incredible abuse of power," said Rep. John Mica (R) of Florida in a floor speech in 1996.

In a 2002 complaint against the IRS, Judicial Watch quotes an IRS agent, in effect, confirming that the motive for the Judicial Watch audit was political retaliation. "What do you expect when you sue the president?" the IRS agent reportedly told Judicial Watch officials, in a meeting on Jan. 12, 1999.

The Clinton-era IRS, like several before it, audited a wide range of organizations viewed as hostile to the White House agenda. These included leading conservative publications, think tanks, and interest groups, among them The American Spectator, the National Review, the Heritage Foundation, the National Rifle Association, the National Center for Public Policy Research, the American Policy Center, American Cause, Citizens for Honest Government, Citizens Against Government Waste, Progress and Freedom Foundation, and Concerned Women for America.

6. President George W. Bush (R)



Andy Nelson/The Christian Science Monitor/File

Then Gov. George W. Bush waved to delegates at the NAACP convention during the 2000 presidential campaign, standing with NAACP Chairman Julian Bond. Bond said the NAACP came under IRS scrutiny after he criticized Bush at a 2004 convention.

Two cases stand out amid claims that the Bush administration, too, used the IRS as a political hit squad.

In a throwback to the Nixon era, the Bush administration appears to have targeted the All Saints Episcopal Church in Pasadena, Calif., for criticism of President Bush on the eve of the 2004 election. In a case that drew



THE ANDREW MELLON CASE

Lesson Plan for Grades II-12

congressional attention, the IRS threatened to revoke the church's tax-exempt status after the Rev. George Regas, the rector at the time, told the congregation that Jesus would have called the Bush doctrine of preemptive war "a failed doctrine."

Rep. Adam Schiff (D) of California called for an investigation of the IRS's intervention. "As you can well appreciate, the actions of the IRS in this matter will have a potentially chilling impact on protected First Amendment rights," he said. After two years, the IRS closed its audit, but without changing the church's nonprofit status.

The Bush IRS also went after the NAACP in 2004, after then-chairman Julian Bond criticized Mr. Bush for being the first president to fail to address the group's annual convention and called for his ouster. In its audit notice, the IRA said those statements constituted "improper political activity" for a group claiming nonprofit status. In a rare move, the NAACP went public with its complaints that the audit was politically motivated. After a two-year battle, the IRS dropped its case, and the NAACP kept its status.