



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

January 21, 2022

The Hon. Donald J. Trump
1100 South Ocean Boulevard
Palm Beach, FL 33480

Re: Taxable Income from RNC Payments for Your Personal Legal Expenses

Dear Mr. Trump:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully writes to remind you that any payments made by the Republican National Committee (“RNC”) for your personal legal expenses related to investigations into your business practices and those of Trump Organization entities are taxable income for you under the law.

The *Washington Post* recently reported that the RNC has agreed to pay up to \$1.6 million in your legal bills to help you “fight investigations into [your] business practices in New York.”¹ According to Federal Election Commission disclosure reports, the RNC paid a total of \$171,670 in October and November 2021 to the law firm of Ronald Fischetti, your attorney in the civil investigation being conducted by the New York Attorney General’s office and in the parallel criminal investigation that office and the Manhattan District Attorney’s office are conducting jointly.² The RNC also paid the law firm of Susan Necheles – who confirmed that she represents both you personally and the Trump Organization – a total of \$328,287 in November.³ In addition, the RNC paid a total of \$200,000 that same month to the law firm of Michael van der Veen, who represents you in the New York investigations.⁴

In all, the RNC has so far reported paying \$699,957 to firms representing you in these investigations. An RNC spokeswoman confirmed that the RNC’s Executive Committee “approved paying for certain legal expenses that relate to” legal proceedings against you.⁵

¹ Josh Dawsey and David A. Fahrenthold, GOP agrees to pay up to \$1.6 million of Trump’s legal bills in N.Y. probes, *Washington Post*, Dec. 16, 2021, <https://wapo.st/3ee1aVc>.

² RNC, FEC Form 3X, 2021 November Monthly Report, Nov. 20, 2021, <https://bit.ly/3sq2yfU> (payments to Fischetti & Malgieri LLP); RNC, FEC Form 3X, 2021 December Monthly Report, Dec. 20, 2021, <https://bit.ly/3GZcgtu> (same); David A. Fahrenthold, Josh Dawsey, Isaac Stanley-Becker, and Shayna Jacobs, RNC agrees to pay some of Trump’s legal bills in N.Y. criminal investigation, *Washington Post*, Nov. 22, 2021, <https://wapo.st/3ebvDmT>; Notice of Motion, *New York v. Trump Organization, et al.*, Index No. 451685/2020, Jan. 3, 2022, <https://bit.ly/3tOuaZh> (naming Mr. Fischetti as your counsel).

³ RNC, FEC Form 3X, 2021 December Monthly Report, Dec. 20, 2021 (payment to NechelesLaw LLP); Dawsey and Fahrenthold, *Washington Post*, Dec. 16, 2021.

⁴ RNC, FEC Form 3X, 2021 December Monthly Report, Dec. 20, 2021 (payment to Van der Veen, Hartshorn and Levin); Dawsey and Fahrenthold, *Washington Post*, Dec. 16, 2021; Notice of Motion, *New York v. Trump Organization, et al.*, Index No. 451685/2020, Jan. 3, 2022 (naming Mr. van der Veen as your counsel).

⁵ Dawsey and Fahrenthold, *Washington Post*, Dec. 16, 2021.

Considering your deep knowledge of tax law, we expect you are fully aware of the tax implications of the RNC's payments on your behalf.⁶ As you know, the RNC is organized under section 527 of the tax code, and is tax-exempt under that section.⁷ Accordingly, contributions and other income received by the RNC to be used for an "exempt function" – that is, for political campaign activity – are not taxed.⁸ In addition, when a political organization like the RNC spends money for an exempt function, that spending is "not income to the individual or individuals on whose behalf such expenditures are made."⁹

Spending by a political organization like the RNC for anyone's personal use, on the other hand, is different. When a political organization spends money "for the personal use of any individual, the individual on whose behalf the amount is expended will be in receipt of income."¹⁰ An expenditure is "for the personal use of an individual where a direct or indirect financial benefit accrues to such individual."¹¹ One example of such a personal use expenditure is when a political organization "pays a personal legal obligation of a candidate for public office, such as the candidate's federal income tax liability."¹² In that case, "the amount paid is includible in such candidate's gross income."¹³

Any RNC payments for your personal legal expenses related to the New York investigations into your business practices clearly are personal use expenditures, not exempt function political spending. You have received a direct financial benefit from the RNC paying nearly \$700,000 to your personal lawyers, and will receive more in the future if the RNC's pledged payments continue. Those benefits are personal. The investigations involve the business practices of you and the Trump Organization, the privately held personal business enterprise of you and your family.¹⁴ These investigations also appear to largely involve business practices that occurred before you assumed public office.¹⁵

The RNC appears to hold the view that these expenditures are not personal use, claiming they "relate to politically motivated legal proceedings" and that it is "entirely appropriate for the RNC to continue assisting in fighting back against the Democrats' never

⁶ See, e.g., *Associated Press*, May 13, 2016, <https://bit.ly/3yKNvhS> ("I think nobody knows more about taxes than I do, maybe in the history of the world. Nobody knows more about taxes."); Aaron Blake, [How Trump's claims to being 'the king of the tax code' could come back to haunt him](https://www.wapo.st/32eJjLi), *Washington Post*, July 6, 2021, <https://wapo.st/32eJjLi> (citing similar quotes).

⁷ 26 U.S.C. § 527(a), (e)(1) (defining "political organization" as "a party . . . organized and operated primarily for the purpose of" engaging in political campaign activity); see also Treas. Reg. § 1-527-1.

⁸ 26 U.S.C. § 527(c), (e)(2) (defining "exempt function" as "the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors"); Treas. Reg. §§ 1-527-2, 1-1.527-3(c).

⁹ Treas. Reg. § 1-527-5(a).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ See, e.g., Kevin Lui, [Donald Trump Now Owns the 48th Largest Private Company In the U.S.](https://bit.ly/3qHhuDy), *Forbes*, Dec. 16, 2016, <https://bit.ly/3qHhuDy>; Biography, Donald J. Trump, Founder, The Trump Organization, <https://www.trump.com/leadership/donald-j-trump-biography> (last visited Jan. 4, 2022) (touting the Trump Organization's "ranking of Number 1 for the largest privately held company in New York" by Crain's New York Business in 2012).

¹⁵ David A. Fahrenthold, Josh Dawsey, Isaac Stanley-Becker, and Shayna Jacobs, [N.Y. prosecutors set sights on new Trump target: Widely different valuations on the same properties](https://wapo.st/3IYwFg), *Washington Post*, Nov. 22, 2021, <https://wapo.st/3IYwFg> (reporting on investigation into business practices from 2012 to 2015).

ending witch hunt and attacks on [you].”¹⁶ That is not, however, the law. Even if the investigations could be considered politically motivated in that they might relate to the public’s perception of you and your fitness for future office, the IRS has made clear that payments for legal expenses in those circumstances are exempt function political expenses only if the legal matter is “relate[d] to the conduct of official duties.”¹⁷ The New York investigations are not related in any way to your former official duties as president, the payments appear to have been made after you were no longer a government employee, and you are not even a candidate for any public office.¹⁸ Accordingly, all the money the RNC paid for your personal legal expenses related to these investigations is taxable income for you.

You have repeatedly noted the “many millions of dollars” you previously paid in federal taxes.¹⁹ We therefore trust that you will adhere to tax law and include all of the RNC’s payments for your personal legal expenses in your taxable income.

Sincerely,



Noah Bookbinder
President

cc: Ronna McDaniel, Chair, Republican National Committee
Hon. Charles P. Rettig, Commissioner, Internal Revenue Service
Hon. Letitia James, Attorney General, New York State
Hon. Alvin Bragg, Jr., District Attorney, New York County

¹⁶ Dawsey and Fahrenthold, *Washington Post*, Dec. 16, 2021,

¹⁷ Priv. Ltr. Rul. 199925051 (Mar. 29, 1999), <https://www.irs.gov/pub/irs-wd/9925051.pdf> (payments for litigation on matters affecting perception of a candidate’s fitness for public office “with respect to the candidate’s or office-holder’s conduct of official governmental functions”); *see also* Rev. Rul. 74-394 (state judge’s legal expenses deductible only where misconduct charges against him “arose out of the allegation that he used the prestige of his office to advance the private commercial interests of others,” charges that “have their origin in the conduct of his duties as a judge”).

¹⁸ *See, e.g.*, William K. Rashbaum, Ben Protess, and Benjamin Weiser, *Here’s What’s Next in the Trump Taxes Investigation*, *New York Times*, Feb. 22, 2021, <https://nyti.ms/330kAKS> (reporting on investigation into “Mr. Trump and his companies for wide range of possible financial crimes,” including “insurance, tax and banking fraud”); Fahrenthold, Dawsey, Stanley-Becker, and Jacobs, *Washington Post*, Nov. 22, 2021.

¹⁹ *See, e.g.*, Donald J. Trump (@realDonaldTrump), Twitter (Oct. 31, 2020), <https://bit.ly/3qHopwI> (“I paid many millions of dollars in Taxes to the Federal Government, most of which was even paid early, or PREPAID. MANY \$MILLIONS.”); Donald J. Trump (@realDonaldTrump), Twitter (Sept. 28, 2020), <https://bit.ly/3qHopwI> (“I paid many millions of dollars in taxes but was entitled, like everyone else, to depreciation & tax credits.....”).