

## The New Yorker Interviews Scott Michel on Trump's Tax>Returns

08.10.2016

*The New Yorker*

Caplin & Drysdale's Scott D. Michel spoke with *The New Yorker* concerning the issue over Presidential candidate Donald Trump's decision not to release his tax returns. For the full article, please visit *The New Yorker's* website.

*Excerpt taken from the article.*

The law is clear about publicly releasing tax returns. The I.R.S. is prohibited from doing so, but taxpayers themselves have every right to disclose their own returns. Does the existence of an audit change the legal status of public disclosure? The answer is no; Trump can release the returns if he wants to. "He filed these tax returns under penalty of perjury with the I.R.S.," Scott Michel, a partner at Caplin & Drysdale, a leading tax-law firm, said. "If he were to disclose the returns publicly, he's not disclosing anything that the I.R.S. doesn't already know about. A disclosure in and of itself cannot possibly prejudice or hurt him with his audit."

The main risk of disclosure is political rather than legal. Trump's returns may show that he pays a very low effective tax rate. They may also show that he gives very little to charity, or show foreign financial entanglements. But there is another, less obvious risk of disclosure, according to Michel. "He knows that if he discloses his tax returns, there will be thousands of tax professionals in this country going over them with a fine-tooth comb," he said. "And, in the public discussion of the returns, there may be issues in his audit that might not yet have arisen, and the I.R.S. hasn't found them. The auditing agent may get the idea to ask about something he hasn't thought about. That's probably one reason why he may be reluctant to turn them over." Again, though, this possibility is a personal financial risk for the candidate, not a legal barrier to disclosure.

If Trump were interested in allowing the public to learn something about his finances, he might, Michel suggested, find a middle ground between total nondisclosure (Trump's current position) and release of the full tax return. (Hillary and Bill Clinton have released their complete tax returns going back several years.) "There are any number of questions that could be asked about what's on his tax returns that wouldn't require him to disclose the returns themselves," Michel said. "How much did he report giving to charity? How much tax have you paid in dollars? What's the effective tax rate that he paid? Do you have any foreign trusts? Foreign bank accounts? How big is your I.R.A.? This is all stuff that is on the face of a tax return"—that is, the form presented to the I.R.S. "There are many facts that he could disclose without going back on his position of not disclosing the full return because he is under audit," Michel said.

### **Attorneys**

Scott D. Michel

### **Related Practices/Industries**

Criminal Tax Cases & White Collar Defense

Tax Disputes & Tax Litigation