

The @nytimes article on Trump's tax returns is a brilliant piece of reporting. But I found one minor error in it that makes the story even worse for Trump. The NYT reported that executive branch financial disclosure filers "simply report revenue, not profit." This is incorrect./1 <https://t.co/LUO87Mijdp>

In fact, those public filings offer a distorted picture of his financial state, **since they simply report revenue, not profit**. In 2018, for example, Mr. Trump announced in his disclosure that he had made at least \$434.9 million. The tax records deliver a very different portrait of his bottom line: \$47.4 million in losses.

Under 5 CFR § 2634.302(b) Trump had to report the money he personally *received* from the business. The distribution is gross, rather than net, only in the sense that he must report the amount distributed to him before he paid his own personal taxes. Trump paid \$750 in taxes. /2 <https://t.co/wXOIhCjvEg>

(b) *Investment income.* Except as indicated in §2634.309, each financial disclosure report filed pursuant to this subpart must disclose:

(1) The source and type of investment income, characterized as dividends, rent, interest, capital gains, or income from qualified or excepted trusts or excepted investment funds (see §2634.312), which is **received** by the filer during the reporting period, and which exceeds \$200 in amount or value from any one source. Examples include, but are not limited to, income derived from real estate, collectible items, stocks, bonds, notes, copyrights, pensions, mutual funds, the investment portion of life insurance contracts, loans, and personal savings accounts (as defined in §2634.301(c)(2)). Note that for entities with portfolio holdings, such as brokerage accounts or trusts, each underlying source of income must be separately disclosed, unless the entity qualifies for special treatment under §2634.312. The amount or value of income from each reported source must also be disclosed and categorized in accordance with the following table:

The error in the NYT article appears to come from thinking that the financial disclosure report is for disclosing income of his businesses (i.e., the Trump Organization). It is not. The financial disclosure report is for disclosing income Trump personally received from them. /3

Thus, the disparity between Trump's financial disclosure report and his tax returns is even more significant than reported. If he knowingly and willfully falsely reported income in his financial disclosure report, he violated the Ethics in Government Act, 5 U.S.C. app. § 104. /4 <https://t.co/ecHxHBDMSf>

§104. Failure to file or filing false reports

(a)(1) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed \$50,000.

(2)(A) It shall be unlawful for any person to knowingly and willfully—

(i) falsify any information that such person is required to report under section 102; and

(ii) fail to file or report any information that such person is required to report under section 102.

(B) Any person who—

(i) violates subparagraph (A)(i) shall be fined under title 18, United States Code, imprisoned for not more than 1 year, or both; and

(ii) violates subparagraph (A)(ii) shall be fined under title 18, United States Code.

If the false disclosure is "material," it could be a crime under 18 U.S.C. § 1001. Given that the president's not subject to the conflict of interest law and, as a result, the entire framework for presidential ethics is based on disclosure alone, one might argue it is material./5 <https://t.co/pRmV8Ihu6Y>

§ 1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

This is not the first question regarding Trump's disclosures. Recall that he omitted his debt to Michael Cohen for the hush money payment to Stormy Daniels. OGE found that he should have disclosed that debt and notified the Justice Department. /6 <https://t.co/uENDRGIMek>

A pattern emerges in which the errors in Trump's financial disclosure reports appear to benefit him. The fact that the corrupted Justice Department won't prosecute — or even investigate — him is irrelevant. What matters is that this conduct is disqualifying for the presidency. /7