

United States Tax Court

T.C. Memo. 2026-92

SITARAMAN JAGANNATH,
Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No. 18629-22.

Filed September 24, 2026.

Tyler H. DeWitt, for petitioner.

David D. Duncan, Marie E. Small, Erika B. Cormier, Jeremy H. Fetter,
and *Meredith L. Stuart*, for respondent.

MEMORANDUM FINDINGS OF FACT AND OPINION

WEILER, *Judge*: Section 4958¹ imposes an excise tax on a “disqualified person” who engages in an “excess benefit transaction” with a tax-exempt charity.² The Internal Revenue Service (IRS or respondent) determined that petitioner, Sitaraman Jagannath, engaged in an excess benefit transaction under section 4958 in tax year 2016 with Senecura, a Tennessee nonprofit corporation (Senecura). Accordingly, the IRS’s Notice of Deficiency (NOD) imposed an excise tax deficiency under section 4958 of \$1,347,500 and additions to tax under section 6651(a)(1) and (2) of \$33,187.50 and \$36,875, respectively. After

¹ Unless otherwise indicated, statutory references are to the Internal Revenue Code, Title 26 U.S.C. (I.R.C. or Code), in effect at all relevant times, regulation references are to the Code of Federal Regulations, Title 26 (Treas. Reg.), in effect at all relevant times, and Rule references are to the Tax Court Rules of Practice and Procedure.

² The parties stipulated that Mr. Jagannath was a disqualified person, and that Senecura was an applicable tax-exempt organization during the tax year 2016.

[*2] concessions, the issues for decision are whether Mr. Jagannath (1) engaged in an excess benefit transaction with Senecura in tax year 2016 and is therefore subject to an excise tax under section 4958 of \$1,327,500³ and (2) is liable for additions to tax under section 6651(a)(1) and (2).

FINDINGS OF FACT

Some of the facts are stipulated and so found. The First Stipulation of Facts, as supplemented, and the attached Exhibits are incorporated herein by this reference. Mr. Jagannath resided in Tennessee when he timely filed his Petition.⁴

I. *Petitioner's Background*

Mr. Jagannath holds bachelor's and master's degrees in chemical engineering and is an author of two books and a publisher of 23 technical articles. Since 2005 he has worked as a chemical engineer specializing in the pulp and paper industry. In addition to his primary employment in chemical engineering, Mr. Jagannath worked in real estate management.

On September 9, 2015, Mr. Jagannath filed Senecura's Charter with the State of Tennessee reporting Senecura as a nonprofit corporation, with a principal office at Mr. Jagannath's home address. Senecura's purpose was to assist indigent individuals with basic living necessities. On September 29, 2015, the IRS mailed Letter 5436 to Senecura at Mr. Jagannath's home address approving Senecura's exemption from corporate income tax under section 501(c)(3) and granting public charity status under section 170(b)(1)(A)(vi) with an effective date of September 9, 2015. During tax year 2016 Mr. Jagannath served as Senecura's president, his father, Natesa Seetharaman, served as director, and Mr. Jagannath's daughter, Jahnvi Jagannath, served as treasurer.

On May 10, 2005, Pingala Group, LLC (Pingala), was formed as a limited liability company in the State of Tennessee. Pingala's purpose was real estate investment and management. For tax year 2016 Pingala

³ Before trial respondent conceded section 4958(a)(2) excise tax of \$20,000 regarding Mr. Jagannath's participation as an organization manager in an excess benefit transaction.

⁴ Absent stipulation to the contrary, this case is thus appealable to the U.S. Court of Appeals for the Sixth Circuit. See I.R.C. § 7482(b)(1)(A), (2).

[*3] was a disregarded entity for federal income tax purposes with all items of income and deductions reported directly on its sole member Mr. Jagannath's Form 1040, U.S. Individual Income Tax Return.

II. *Transactions Between Senecura and Pingala*

On April 4, 2016, Senecura's SunTrust Bank business advantage money market account reflected an "Over the Counter Withdrawal" for \$590,000. On April 15, 2016, Mr. Jagannath, as president of Senecura and as sole member of Pingala, executed a document titled Promissory Note whereby Pingala as borrower received \$590,000 with no interest due from Senecura as lender (Promissory Note). Mr. Jagannath signed the Promissory Note on behalf of both the borrower and lender. The unpaid principal balance was payable in full on December 31, 2021. As of the start of trial Pingala had not repaid Senecura under the Promissory Note.

On or about April 2016 Pingala's SunTrust Bank business advantage money market account and primary business checking account did not reflect a deposit or credit of \$590,000.⁵ However, on December 30, 2016, Senecura's SunTrust Bank primary business checking account reflected a \$600,000 deposit described as an "Incoming Fedwire CR TRN #016861."

During 2016 one of Mr. Jagannath's children worked at the Social Justice Collaborative (SJC), an organization that advises indigent clients on immigration issues. In 2016 SJC was looking to purchase a building in Berkeley, California (Berkeley Property), as its principal office; however, SJC was unable to secure favorable financing to acquire the building. Thus, SJC reached out to Senecura for assistance, but Senecura could not qualify for a loan. The building acquisition was delayed for two years, and it was not until 2018 that Pingala assisted with the acquisition of the Berkeley Property for SJC.

On October 23, 2018, Old Republic Title Co. mailed Pingala a buyer's settlement statement, to the attention of Mr. Jagannath, regarding the acquisition of the Berkeley Property for the sale price of approximately \$1.85 million.⁶ Pingala provided \$561,919.89 toward the

⁵ Notably, these account statements show an incoming wire of \$1 million on January 21, 2016, and there is an outgoing wire for the same amount the following day.

⁶ The total price listed in the settlement statement, after all fees and other closing charges, was \$1,878,758.

[*4] purchase of the Berkeley Property, and Senecura's SunTrust Bank account reflects a withdrawal recorded as an "Outgoing Fedwire" on October 22, 2018, from the business advantage money market account for \$536,919.89.⁷

III. *Tax Reporting*

A. *2015*

On December 15, 2016, Senecura filed its 2015 Form 990, Return of Organization Exempt From Income Tax, which Mr. Jagannath signed as president, reporting his home address as Senecura's address. The 2015 Form 990 was filed by Hylander CPA Firm PLLC. On the 2015 Form 990, Part VI, Governance, Management, and Disclosure, line 20, Mr. Jagannath was listed as the individual possessing Senecura's books and records. On the Form 990, Part VIII, Statement of Revenue, line f, Senecura reported contributions of \$608,700. Schedule B, Schedule of Contributors, was attached to the Form 990, which reported that Shiv Jumar, Mr. Jagannath's half-brother, contributed \$600,000 and that Mr. Jagannath contributed \$8,700.

B. *2016*

Senecura filed its 2016 Form 990 on July 10, 2017. It was prepared by MyTaxFiler. On the 2016 Form 990, Part VI, Governance, Management, and Disclosure, line 20, Mr. Jagannath was listed as the individual possessing Senecura's books and records. On the Form 990, Part VIII, Statement of Revenue, line f, Senecura reported contributions, gifts or grants of \$600,000; however, no Schedule B, Schedule of Contributors, was attached to the 2016 Form 990.

Likewise on its Balance Sheet, Part X of Form 990, Senecura reported beginning of year assets, consisting entirely of cash and savings balances of \$603,810, and yearend cash and savings balances for nearly the same amounts. However, Senecura also now reported on the yearend balance sheet "[l]oans and other receivables from current and former officers, directors, trustees, key employees, and highest compensated employees" of \$590,000. The yearend balance sheet reflected total assets

⁷ Pingala had previously made a \$25,000 earnest money deposit and was ultimately refunded at the closing \$2,034 by Old Republic Title Co.

[*5] of \$1,201,200.⁸ Despite the instructions in Part X of Form 990, Senecura failed to attach Part II, Loans to and/or From Interested Persons, of Schedule L, Transactions With Interested Persons, reflecting the details of any loans and other receivables from current and former officers, directors, trustees, key employees, and highest compensated employees.

C. 2017

Senecura filed its 2017 Form 990 on October 8, 2018. Like its 2016 return, the 2017 return was prepared by MyTaxFiler. On the 2017 Form 990, Part VI, Governance, Management, and Disclosure, line 20, Mr. Jagannath was again listed as the individual possessing the organization's books and records. Part X, Balance Sheet, line 5, again reported \$590,000 in "[l]oans and other receivables from current and former officers, directors, trustees, key employees, and highest compensated employees" as both the beginning and yearend totals. Senecura once again did not attach Part II of Schedule L.

D. 2018

Senecura filed its 2018 Form 990 on January 11, 2021. Unlike the returns for the two prior years, Senecura's 2018 return was prepared by Fulton CPAs. On the 2018 Form 990, Part VI, Governance, Management, and Disclosure, line 20, Mr. Jagannath was again listed as the individual possessing the organization's books and records. Senecura's Balance Sheet, Part X, line 7, reported "[n]otes and loans receivables, net" having a beginning of year balance of \$1,090,000⁹ and a yearend balance of \$1,626,920. This difference between beginning and yearend balances is approximately \$536,920. Senecura's 2018 return did include Schedule L, Part IV, Business Transactions Involving Interested Persons, and stated that \$536,920 was for a "Loan to Pingala Group LLC a single member LLC owned by Sitaraman Jagannath. Purpose of loan – to purchase building for nonprofit organization Social Justice

⁸ In other words, the balance sheet for Senecura reflects cash of some \$603,000 at the beginning of the year, and at the end of the year cash of \$611,200 and a loan of \$590,000.

⁹ On Senecura's 2017 yearend balance sheet, two separate assets were reported: \$590,000 was reported on line 5 and \$500,000 was reported on line 10 of land, buildings, and equipment. However, on the 2018 beginning of year balance sheet, these amounts were somehow combined into a single asset of \$1,090,000 reported on line 7.

[*6] Collaborative.”¹⁰ Pingala was also listed as an interested person on Senecura’s Schedule L.

IV. *IRS Examination*

The IRS Tax Exempt and Government Entities Division conducted an excise tax examination of Senecura’s 2016 Form 990. The IRS issued a letter dated September 12, 2019 (September Letter), to Mr. Jagannath regarding the \$590,000 Promissory Note between Senecura and Pingala.

On February 24, 2020, the IRS Tax Exempt and Government Entities Division issued a letter to Mr. Jagannath correcting some of the information furnished in the September Letter concerning the excess benefit transaction as well as detailing the imposition of an excess benefit transactions excise tax. The IRS attached Form 4883, Exempt Organizations Excise Tax Audit Changes, and Form 4621, Exempt Organizations – Report of Examination, which detailed the excess benefit transaction, and the imposition of excise tax against Mr. Jagannath individually, along with additions to tax under section 6651(a)(1) and (2). On February 24, 2020, Revenue Agent Danae D. Anderson signed Form 13496, IRC Section 6020(b) Certification, for tax year 2016 regarding Mr. Jagannath’s failure to file Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code, as identified and computed in the corresponding Form 886–A, Form 4883, and Form 4621.

The February 24, 2020, letter also attached Form 886–A, Explanations of Items, which stated that (1) Senecura is an applicable tax-exempt organization; (2) Mr. Jagannath as president of Senecura is a disqualified person under section 4958(f)(1) and subject to the 25% excise tax; (3) Mr. Jagannath is subject to a \$20,000 excise tax as the organization manager of Senecura pursuant to section 4958(f)(2); (4) Mr. Jagannath as the sole member of Pingala is required to correct the excess benefit transaction by returning the \$590,000 plus interest of \$26,215.21; and (5) if Mr. Jagannath does not return the funds, he is also subject to a section 4958(b) second tier tax of 200%. Additions to tax were due under section 6651(a)(1) and (2) for the failure to file Form 4720 and failure to pay excise taxes under section 4958.

¹⁰ The 2018 Form 990 did not report the \$590,000 of “[l]oans and other receivables from current and former officers, directors, trustees, key employees, and highest compensated employees” on the Balance Sheet.

[*7] Mr. Jagannath filed a formal protest letter dated March 24, 2020, for the imposition of the excess benefit transaction excise tax. His protest letter to the IRS Independent Office of Appeals (Appeals) did not dispute that Senecura was a tax-exempt organization or that he was its manager. However, Mr. Jagannath disputed that he is a disqualified person, and he argued that the loan between Senecura and Pingala is a bona fide loan. Specifically, he argued that he satisfies the factors in favor of finding a loan. Lastly, Mr. Jagannath disputed the additions to tax under section 6651 solely on the grounds that he did not receive an excess benefit.

V. *Notice of Deficiency*

On May 24, 2022, Appeals issued an NOD to Mr. Jagannath for tax year 2016. Mr. Jagannath timely filed a Petition with the Court on August 22, 2022.

OPINION

I. *Burden of Proof*

The Commissioner's determinations in an NOD are generally presumed correct, and the taxpayer bears the burden of proving them erroneous. Rule 142(a); *see Welch v. Helvering*, 290 U.S. 111, 115 (1933). In certain circumstances section 7491 may shift the burden of proof to the Commissioner. But this burden shift applies only for purposes of ascertaining a taxpayer's liability "for any tax imposed by subtitle A or B," which govern income, estate, and gift taxes. I.R.C. § 7491(a)(1). Section 7491 has no application to a case such as this, which involves excise tax determined under subtitle D. *See Paschall v. Commissioner*, 137 T.C. 8, 17 (2011) ("[S]ection 7491(a) applies only to subtitles A and B, which include income taxes and estate and gift taxes."); *Farr v. Commissioner*, T.C. Memo. 2018-2, at *6 n.5 ("Sec. 7491(a) is inapplicable because it does not apply to taxes imposed by subtitle D of the Code, such as the taxes under sec. 4958 that are at issue here."), *aff'd*, 738 F. App'x 969 (10th Cir. 2018). Mr. Jagannath thus bears the burden of proving that respondent's excise tax determinations are incorrect.

[*8] II. *Excise Tax Liability*

A. *Governing Statutory Structure*

Section 4958 is captioned “[t]axes on excess benefit transactions.” Section 4958(c)(1)(A) defines an “excess benefit transaction” as “any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit.”

An “applicable tax-exempt organization” is defined to include an organization described in section 501(c)(3) and exempt from tax under section 501(a). *See* I.R.C. § 4958(e)(1). The parties stipulated that Senecura was an applicable tax-exempt organization during the 2016 tax year. A “disqualified person” is defined to include “any person who was, at any time during the 5-year period ending on the date of [the excess benefit] transaction, in a position to exercise substantial influence over the affairs of the organization.” I.R.C. § 4958(f)(1). The parties stipulated that Mr. Jagannath was a disqualified person for purposes of section 4958 during the 2016 tax year.

Section 4958(a)(1) imposes on each excess benefit transaction an excise tax “equal to 25 percent of the excess benefit” and provides that this tax “shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.” If the excess benefit transaction is not corrected within the taxable period, the disqualified person is liable for a second-tier tax equal to 200% of the excess benefit. *See* I.R.C. § 4958(b). The term “taxable period” means, with respect to any excess benefit transaction, the period beginning with the date on which the transaction occurs and ending on the earlier of (1) the date of mailing an NOD under section 6212 with respect to the tax imposed by subsection (a)(1); or (2) the date on which the tax imposed by subsection (a)(1) is assessed. *See* I.R.C. § 4958(f)(5). Thus, the “taxable period” is the period beginning on the date which the excess benefit transaction occurred and ending on the date the NOD was mailed.¹¹

Congress enacted section 4958 not to collect revenue but to “deter insiders of an organization from using their positions of influence to

¹¹ Mr. Jagannath did not raise challenges regarding the taxable period, and we accordingly deem these issues abandoned or conceded. *See Lake Jordan Holdings, LLC v. Commissioner*, T.C. Memo. 2025-123, at *22–23.

[*9] receive unreasonable compensation.” *See U.S. Department of the Treasury’s Proposals to Improve Compliance by Tax-Exempt Organizations: Hearing Before the Subcomm. on Oversight of the H. Comm. on Ways & Means*, 103d Cong. 15 (1994) (statement of Leslie B. Samuels, Assistant Secretary for Tax Policy). “Before the enactment of section 4958, if an organization . . . did not comply with the rules regarding tax exemption, the Commissioner’s only recourse was to revoke the organization’s exemption.” *Caracci v. Commissioner*, 118 T.C. 379, 414 (2002), *rev’d per curiam*, 456 F.3d 444 (5th Cir. 2006). Because revocation of a tax exemption is a harsh result, and because it falls “on the organization, rather than benefited individuals,” Congress recognized the need for “intermediate sanctions.” Boris I. Bittker & Lawrence Lokken, *Federal Taxation of Income, Estates & Gifts* ¶ 100.5 (2025), Westlaw FTXIEG. Section 4958, like other intermediate sanctions, is intended to deter malfeasance and incentivize insiders to restore the charity to the status quo ante. *See Bittker & Lokken, supra*, ¶ 100.5.

B. *Analysis*

1. *Parties’ Arguments*

Mr. Jagannath argues that he never received an economic benefit of \$590,000 during tax year 2016 from Senecura. He contends that the “Over the Counter Withdrawal” on April 4, 2016, from the business advantage money market account for \$590,000 was returned on December 30, 2016, evidenced by an incoming wire of \$600,000 to Senecura’s primary business checking account.¹²

Mr. Jagannath testified that the Promissory Note dated April 15, 2016, for \$590,000 was not an actual transfer of money but part of an anticipated plan to purchase the Berkeley Property for SJC. Specifically, Mr. Jagannath stated that in 2016 Senecura was trying to help SJC with the acquisition of the Berkeley Property; however, the transaction was not completed until sometime in 2018. At trial Mr. Jagannath provided the Berkeley Property escrow statement dated October 23, 2018, which reflects an earnest deposit of \$536,919.89 from Pingala and a corresponding outgoing wire from Senecura’s business advantage money market account for \$536,919.89 on October 22, 2018.

¹² Mr. Jagannath did not argue at trial that the \$590,000 amount was a bona fide loan.

[*10] Respondent contends that Mr. Jagannath received \$590,000 in 2016 from Senecura. Respondent contends that this \$590,000 withdrawal is reflected on Senecura’s SunTrust bank statement as an “Over the Counter Withdrawal” with the loan evidenced by Mr. Jagannath signing the Promissory Note for a principal balance of \$590,000 on April 15, 2016, as both borrower and lender. Respondent further contends that the 2016 and 2017 Forms 990 both report the \$590,000 as a loan to officer.

On the objective evidence before us, we find respondent’s position compelling.

2. *Excess Benefit Transaction*

The term “excess benefit transaction” means “any transaction in which an economic benefit is provided by an applicable tax-exempt organization . . . to . . . any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit.” I.R.C. § 4958(c)(1)(A). To ascertain Mr. Jagannath’s excise tax liability, we must first determine the aggregate “economic benefits” that Senecura provided to him. We must then subtract from that total any consideration that Senecura received in exchange for providing such benefits. *See Fumo v. Commissioner*, T.C. Memo. 2025-97, at *77.

At trial Mr. Jagannath no longer maintained that the \$590,000 was a bona fide loan but instead testified that the \$590,000 withdrawal was not retained by him but was repaid by a \$600,000 incoming wire made on December 30, 2016. We do not find his explanation credible.

The 2016 Form 990 reported \$600,000 as “[a]ll other contributions, gifts, grants, and similar amounts.” It is unclear who made the \$600,000 contribution in 2016 since no Schedule B was filed and Mr. Jagannath testified before this Court that he was unsure who made the contribution.¹³ In sum, it remains unclear whether the \$600,000 was repayment of his prior loan of \$590,000. Mr. Jagannath relies on self-serving testimony to support his position. His testimony at times was questionable, vague, conclusory, and unsupported by the evidence in the record. Under these circumstances we are not required

¹³ The \$600,000 “repayment” was paid into Senecura’s primary business checking account while the \$590,000 was an “Over the Counter Withdrawal” from Senecura’s business advantage money market bank account. It is also unclear why a repayment would be \$600,000 when there was only a \$590,000 withdrawal.

[*11] to, and do not, rely on Mr. Jagannath's testimony to establish error in respondent's determinations. *See Lerch v. Commissioner*, 877 F.2d 624, 631–32 (7th Cir. 1989), *aff'g* T.C. Memo. 1987-295; *Lovell & Hart, Inc. v. Commissioner*, 456 F.2d 145, 148 (6th Cir. 1972), *aff'g per curiam* T.C. Memo. 1970-335; *Mills v. Commissioner*, 399 F.2d 744, 749 (4th Cir. 1968), *aff'g* T.C. Memo. 1967-67; *Factor v. Commissioner*, 281 F.2d 100, 111 (9th Cir. 1960), *aff'g* T.C. Memo. 1958-94; *Tokarski v. Commissioner*, 87 T.C. 74, 77 (1986) (stating that we are not bound to accept a taxpayer's self-serving testimony).

Mr. Jagannath also contends that he never actually received \$590,000 from Senecura in 2016. Specifically, he testified that he could not recall where the \$590,000 went and whether there was a loan.

Mr. Jagannath filed Senecura's Charter with the State of Tennessee on September 9, 2015. We find it to be rather doubtful how Mr. Jagannath, as Senecura's president during the first and second years of operation, cannot recall the source of and withdrawal of nearly all of Senecura's reported contributions. Although we recognize that Pingala SunTrust bank accounts do not reflect a \$590,000 deposit, the withdrawal of \$590,000 from Senecura's account was made as an "Over the Counter Withdrawal."

Mr. Jagannath contends that the Promissory Note was not an actual transfer of money in 2016 but only represents the anticipated purchase of the Berkeley Property in 2018. While this proposition is generally true, here we find his argument to be equally unpersuasive. The Promissory Note for \$590,000 was signed by Mr. Jagannath as both the lender for Senecura and borrower for Pingala and 11 days after the bank records reported an "Over the Counter Withdrawal" for \$590,000. It is far more reasonable to conclude the Promissory Note reflects this withdrawal from Senecura to Pingala. Mr. Jagannath presents no evidence disputing respondent's position other than self-serving testimony,¹⁴ which again we are under no obligation to accept.

Lastly, the 2016 and 2017 Forms 990 report the \$590,000 withdrawal amount on Part X, Balance Sheet, line 5, as "[l]oans and other receivables from current and former officers, directors, trustees,

¹⁴ Mr. Jagannath argues the withdrawal made on October 22, 2018, for \$536,919.89 is related to the withdrawal made on April 4, 2016, for \$590,000. We do not agree because these two withdrawals appear to be independent. Moreover, it remains unclear how the Promissory Note of \$590,000 is related to the purchase of the Berkeley Property in 2018.

[*12] key employees, and highest compensated employees.” For tax years 2016 and 2017 Senecura did not attach Part II of Schedule L, which was required for any loans and other receivables from current and former officers, directors, trustees, key employees, and highest compensated employees. Mr. Jagannath testified that these Forms 990 are incorrect, and that this error was later corrected on the 2018 Form 990. Mr. Jagannath does not present amended Forms 990 for 2016 and 2017, and the only testimony we heard regarding this issue was again from Mr. Jagannath. We continue not to accept his self-serving testimony, *see Tokarski*, 87 T.C. at 77, and prefer to accept contemporaneous documentary records (e.g., Forms 990) as credible evidence.

In sum, we find Mr. Jagannath’s arguments unpersuasive. The evidence before us supports the finding that there was an “Over the Counter Withdrawal” from Senecura’s bank account and 11 days later, Mr. Jagannath, on behalf of both parties, executed the Promissory Note acknowledging that Pingala received \$590,000 from Senecura. Mr. Jagannath was the sole member of Pingala, possessed Senecura’s books and records, and offered no credible explanation for the withdrawal. We determine that Mr. Jagannath—as a disqualified person—did in fact receive \$590,000. We further determine that Senecura received no consideration in exchange for providing such benefits. *See Fumo*, T.C. Memo. 2025-97, at *77.¹⁵

Thus, we determine that Mr. Jagannath engaged in an excess benefit transaction of \$590,000, and under section 4958(a)(1) a 25% excise tax of \$147,500 is imposed. In addition, a 200% tax of \$1,180,000 under section 4958(b) is imposed on the \$590,000 excess benefit transaction since we do not find that Mr. Jagannath repaid the excess benefit within the taxable period. *See* I.R.C. § 4958(f)(5) and (6). Accordingly, under section 4958 there is a total excise tax on the \$590,000 excess benefit transaction of \$1,327,500.¹⁶

III. *Additions to Tax Under Section 6651(a)(1) and (2)*

Section 6651(a)(1) imposes an addition to tax for failing to file a tax return by the due date. To satisfy his burden of production, the Commissioner must show that the taxpayer did not file a return by the

¹⁵ Mr. Jagannath did not raise challenges regarding consideration, and we accordingly deem these issues abandoned or conceded.

¹⁶ Excise tax under section 4958(a)(2) is not applicable. *See supra* note 3.

[*13] due date. *See Wheeler v. Commissioner*, 127 T.C. 200, 207–08 (2006), *aff'd*, 521 F.3d 1289 (10th Cir. 2008). Moreover, tax-exempt organizations are required to file Form 4720 to report liability for various excise taxes, including excess benefit transactions under section 4958. *See* Treas. Reg. § 53.6011-1(b) (providing that “[e]very person” liable for tax imposed by section 4958(a) shall file such a return).

In *Ononuju v. Commissioner*, T.C. Memo. 2021-94, at *25–29, we determined that additions to tax may apply when a disqualified person fails to file Form 4720 reporting excess benefit transactions. “Section 6011(a) provides that, ‘[w]hen required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title * * * shall make a return or statement according to the forms and regulations prescribed by the Secretary.’” *Id.* at *26. The Secretary has prescribed regulations under section 6011 mandating that “[e]very person liable for tax imposed by section[] . . . 4958(a) . . . shall file an annual return on Form 4720.” Treas. Reg. § 53.6011-1(b). “Because this filing requirement was promulgated under the authority of section 6011(a),” Mr. Jagannath’s failure to file Form 4720 subjects him to liability for this addition to tax under section 6651(a)(1). *See Ononuju*, T.C. Memo. 2021-94, at *26–27; *cf. Janpol v. Commissioner*, 102 T.C. 499, 500 (1994) (ruling that an addition to tax may apply for failure to file Form 5330 reporting section 4975 excise tax on prohibited transactions), *supplementing* 101 T.C. 518 (1993).

Section 6651(a)(2) imposes an addition to tax for failing to pay taxes when due. For each month or fraction thereof for which a failure to pay continues, section 6651(a)(2) adds 0.5% of the tax required to be shown on the return, up to a maximum addition of 25%. If a taxpayer fails to file and fails to pay, then for that month or fraction thereof the addition to tax under section 6651(a)(1) will be the difference between the addition for the failure to file and the addition for the failure to pay. *See* I.R.C. § 6651(c)(1). To satisfy his burden of production, the Commissioner must show that a tax return was filed, or a substitute for return (SFR)¹⁷ was prepared, showing a tax liability for the relevant year. *See Wheeler*, 127 T.C. at 210.

If the Commissioner satisfies his burden of production for additions to tax under section 6651(a), the taxpayer then bears the burden of proving the additions to tax are inappropriate. *Wheeler*, 127

¹⁷ An SFR that meets the requirements of section 6020(b) is treated as the “return” filed by the taxpayer for this purpose. *See* I.R.C. § 6651(g)(2).

[*14] T.C. at 206; *Higbee v. Commissioner*, 116 T.C. 438, 446–47 (2001); *see also* I.R.C. § 6651(a)(1) and (2). A taxpayer may demonstrate that additions to tax are inappropriate by establishing reasonable cause, which requires showing that, despite exercising ordinary business care and prudence, the taxpayer was unable to file the return or pay the tax, as applicable, on time, typically for reasons outside the taxpayer's control. *See* Treas. Reg. § 301.6651-1(c)(1).

As to section 6651(a)(1) additions to tax, respondent has satisfied his burden by introducing evidence that Mr. Jagannath did not file Form 4720 for tax year 2016. *See Fumo*, T.C. Memo. 2025-97, at *88–90; *Ononuju*, T.C. Memo. 2021-94, at *25–29.

As to section 6651(a)(2) additions to tax the parties stipulated that respondent complied with section 6020(b). The record includes the Form 13496 signed by the assigned revenue agent and the prepared SFR report for tax year 2016. Accordingly, we determine respondent has met his burden as to these additions to tax. *See Frost v. Commissioner*, 154 T.C. 23, 33–34 (2020); *Ononuju*, T.C. Memo. 2021-94, at *29.

Mr. Jagannath does not contend that he filed Form 4720 for tax year 2016 or paid the excise tax amount sought by respondent. Moreover, Mr. Jagannath did not raise a reasonable cause defense for either his failure to file or failure to pay. *See* I.R.C. § 6651(a)(1) and (2). Accordingly, we will sustain respondent's imposition of these additions to tax.

IV. *Conclusion*

On the basis of the preceding analysis, we hold that Mr. Jagannath engaged in an excess benefit transaction of \$590,000 in tax year 2016 and that he is liable for excise taxes under section 4958(a)(1) and (b) of \$1,327,500. We further hold that Mr. Jagannath is liable for section 6651(a)(1) failure-to-file additions to tax and section 6651(a)(2) failure-to-pay additions to tax.

To reflect the foregoing,

Decision will be entered under Rule 155.