



United States Tax Court

Washington, DC 20217

Douglas Leon Schnitzspahn

Petitioner

v.

Commissioner of Internal Revenue

Respondent

Docket No. 8477-20S

ORDER

Pursuant to Rule 152(b), Tax Court Rules of Practice and Procedure, it is

ORDERED that the Clerk of the Court shall transmit herewith to petitioner and to respondent a copy of the pages of the transcript of the trial in the above case before Judge Kathleen Kerrigan at Denver, Colorado (Remote), containing her oral findings of fact and opinion rendered at the trial session at which the case was heard.

In accordance with the oral findings of fact and opinion, a decision will be entered under Rule 155.

(Signed) Kathleen Kerrigan
Judge

Served 10/20/21

1 Bench Opinion by Judge Kathleen Kerrigan
2 September 30, 2021
3 Douglas Leon Schnitzspahn v. Commissioner
4 Docket No. 8477-20S

5 THE COURT: The Court has decided to render in
6 this case the following as its oral findings of fact and
7 opinion, which shall not be relied upon as precedent in
8 any other case. This Bench Opinion is made pursuant to
9 the authority granted by section 7459(b) of the Internal
10 Revenue Code and Rule 152 of the Tax Court Rules of
11 Practice and Procedure.

12 This case was heard pursuant to section 7463 of
13 the Internal Revenue Code in effect when the petition was
14 filed.

15 The decision to be entered is not reviewable by
16 any other court and this opinion shall not be treated as
17 precedent for any other case. Unless otherwise indicated
18 all section references are to the Internal Revenue Code in
19 effect for all relevant times and all Rule references are
20 to the Tax Court Rules of Practice and Procedure. All
21 monetary amounts are rounded to the nearest dollar.

22 By notice of deficiency, dated January 28,
23 2020, the Internal Revenue Service (IRS or respondent),
24 determined a deficiency in petitioner's federal income tax
25 for 2016 of \$32,516 and additions to tax pursuant to

1 section 6651(a) (1) of \$5,966, section 6651(a) (2) of \$4,242
2 and section 6654(a) of \$777.

3 On September 30, 2021, a stipulation of settled
4 issue was filed. The sole issue for consideration is
5 whether petitioner is liable for additions to tax.

6 A remote trial of this case was conducted on
7 September 30, 2021. Petitioner represented himself and
8 Jonathan D. Walker represented respondent. Exhibits were
9 admitted into evidence. Petitioner husband was the only
10 witness.

11 Background

12 Petitioner resided in Colorado when he timely
13 filed his petition. For 2016 petitioner did not timely
14 file a federal income tax return. He has a history of
15 filing his tax returns late. Petitioner requested and was
16 granted an extension of time to file his 2016 return until
17 October 15, 2017. Along with the request for the
18 extension, petitioner made a payment of \$6,000.
19 Respondent prepared a substitute return for 2016, dated
20 November 18, 2019. Petitioner did not provide respondent
21 with a completed return for 2016 until September 2021.

22 Petitioner did not timely pay the tax due on his
23 income tax return for 2016. He also did not pay estimated
24 taxes for 2016.

25 Discussion



1 Section 6651(a) (1) imposes an addition to tax if
2 the taxpayer fails to file his or her income tax return by
3 the required due date (including any extension of time for
4 filing). A taxpayer has the burden of proving that failure
5 to timely file was due to reasonable cause and not willful
6 neglect. See sec. 6651(a) (1), Higbee v. Commissioner,
7 116 T.C. 438, 447 (2001). Under section 7491(c) the
8 Commissioner bears the burden of producing evidence with
9 respect to the liability of the taxpayer for any additions
10 to tax. See Higbee v. Commissioner, 116 T.C. at 446-447.

11 For 2016, petitioner did not file an income tax
12 return. Pursuant to 6020(b) respondent completed a
13 substitute for return. Therefore respondent's burden of
14 production has been met. Even though petitioner is making
15 progress on filing his tax returns, petitioner did not
16 establish that his failure to file was due to reasonable
17 cause. Accordingly the section 6651(a) (1) addition to tax
18 is sustained for 2016.

19 Section 6651(a) (2) imposes an addition to tax if
20 the taxpayer fails to pay his or her income tax return by
21 the required due date including any extension of time for
22 filing. A taxpayer has the burden of proving that failure
23 to pay was due to reasonable cause and not willful
24 neglect. See sec. 6651(a).

25 Petitioner has not argued or presented any

1 evidence that his failure to timely pay was due to
2 reasonable cause. Accordingly, petitioner is liable for
3 the amount calculated pursuant to section 6651(a)(2).

4 Section 6654(a) imposes an addition to tax on
5 underpayment of estimated tax unless an exemption
6 applies. Respondent's burden of production under section
7 7491(c) with respect to the section 6654(a) tax has been
8 satisfied since petitioner had income tax liability for
9 2016 and made no estimated tax payments for that year.

10 Generally, no reasonable cause exception exists
11 for section 7765(a) addition to tax. Sec. 1.6654-
12 1(a)(1,) Income Tax Regs. There are exceptions to
13 section 6654(a) addition to tax and petitioner does not
14 meet the requirements of these exceptions. See sec.
15 6454(a). Accordingly petitioner is liable for the
16 addition to tax pursuant to section 6654(a).

17 A decision will be entered under Rule 155.

18 This concludes the Court's oral Findings of
19 Fact and Opinion in this case.

20 (Whereupon, at 3:40 p.m., the above-entitled
21 matter was concluded.)
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CERTIFICATE OF TRANSCRIBER AND PROOFREADER

CASE NAME: Douglas Leon Schnitzspahn v. Commissioner

DOCKET NO.: 8477-20S

We, the undersigned, do hereby certify that the foregoing pages, numbers 1 through 7 inclusive, are the true, accurate and complete transcript prepared from the verbal recording made by electronic recording by Roger Meyers on September 30, 2021 before the United States Tax Court at its remote session in Denver, CO, in accordance with the applicable provisions of the current verbatim reporting contract of the Court and have verified the accuracy of the transcript by comparing the typewritten transcript against the verbal recording.



Meribeth Ashley, CET-507

10/5/21

Transcriber

Date



Lori Rahtes, CDLT-108

10/5/21

Proofreader

Date

