Individual webinar on Tax-Exempt Organizations, Charities and Nonprofits Update Elaine Leichter, Olabisi Ola Buraimo (presented August 16, 2022): <https://irstaxforumsonline.com/sites/default/files/players/14te816/downloads/14te816transcript.pdf>

Excerpted text\* addressing Form 4720 filing issues follows:

pp. 4-5 excerpted: Returns filed on paper for a period before the e-Filing requirement took effect will be processed. However, a paper return for a period after electronic filing is required will be rejected. The filer will be treated as not having filed the return until the return is filed electronically, and late filing penalties will apply. The electronic filing requirement for Form 4720 is a bit different from the 990 Series because a private foundation's requirement to file Form 4720 is under Section 5033 while the electronic filing requirement for all other users of Form 4720 will be found in regulations under Section 6011-E, which are currently pending. Because the e-File requirements under Section 5033 is absolute, any private foundation that must file Form 4720 for the 2020 tax year or later must file it electronically. All other Form 4720 filers can file electronically now. Any discussion of e-File requirements for those filers, the filers who have done the PF, must wait for final regulations. Today we'll focus on Form 4720 filed by a private foundation. Because of the requirement for private foundations to file electronically, each taxpayer who must file 4720 must file their own return. Disqualified persons and organization managers liable for an excise tax can no longer join in the same return as the one filed by the organization. 2021 was a transition year for Form 4720. We were a few months into the 2021 filing year or filing period before the Form 4720 software became available. Accordingly, we did not require Form 4720 returns for the 2020 tax year to be filed electronically unless the due date was on or after July 15, 2021. However, at this point, any Form 4720 filed by a private foundation for tax year 2020 or later must be filed electronically. Paper submissions will be rejected.

pp. 7-8 excerpted: Next, we will talk about some issues that have been raised by taxpayers using the revised Form 4720. Adapting Form 4720 to the MEF format required that we modified the form. Part 1 continues to capture taxes imposed on the organization and on a related taxpayer liable for the excise tax on executive compensation under 4960. Part 2 captures the taxes imposed on the manager, self-dealer, disqualified person, donor or donor-advisor. This is similar to Part 2A of the paper-only version for tax years 2019 and earlier. Part 3 replaces Part 2B of the prior form. Prior to the Taxpayer First Act, Part 2B included taxes on the organization as well as the tax on any person other than the organization who joins the organization on its return. Now Part 3 is used to report and pay the taxes that apply to

\* Excerpted by Eve Borenstein with HER annotations (bold/underlining/highlighting) added

either the organization or a related person liable for tax under 4960 or to report and pay taxes that apply to a manager, self-dealer, disqualified person, donor or donor-advisor who owes a Chapter 41 or 42 excise tax but never both. **If the organization is filing the return, the filer carries its total from Part 1, Line 15 to Part 3. If a person other than the organization or the related person under 4960 because they file in a similar fashion is filing Form 4720, that person carries the total from Part 2, Line 10 to Part 3. The return filed by the organization must always have an entry in Part 1 on Line 15 even if that amount is zero.** If the organization leaves Part 1 completely blank, the return will not be seen as complete. For filers other than the organization, Part 2, Line 10 must always have an entry, Because the organization and a manager, self-dealer, disqualified person, donor or donor-advisor will no longer file together, the correctly completed Form 4720 will never have entries in both Part 1 and Part 2. Schedules A through O capture detail about the facts of transactions that can cause the organization or any of its related persons to be subject to an excise tax. The organization should complete all applicable schedules even if the organization will not be liable for the tax. Take, for example, a self-dealing transaction between a private foundation and a disqualified person. The particulars of each transaction reported on Schedule A of Form 4720 is filed by the organization even though the organization must not pay that tax. **The organization must make an entry in Part 1. Part 2 must be left blank.** The self-dealer will use Part 2 when they complete their own Form 4720 to report and pay the tax. If the self-dealer is also a manager, they will include the tax imposed on them in their role as manager in Part 2. We are aware of some organizations reporting self-dealing on Schedule A but no other excise tax. And then instead of entering zeros on Part 1, Line 15 and carrying that total to Part 3, the organization is using Part 2 to show that tax liability of the disqualified person or manager and then trying to correctly report zero tax due in Part 3. Unfortunately, if the run is filled out this way, the return will sometimes get past our error checks, and the return will be processed. The self-dealing tax will attach to the organization's account, and the IRS will seek payment from the organization. That is, of course, not correct. The foundation should never pay the excise tax imposed on the self-dealer. Instead, the foundation should enter zero on Part 1, Line 15 so that the return will be seen as complete. Leave Part 2 blank and show zero tax due on Part 3. An organization that makes the error I just described and receives demand for payment of the excise tax needs to file an amended Form 4720 to correct the entries.