

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

JOHN A. ATKINSON & JUDY B.	)		
ATKINSON, ET AL.,	)		
	)		
Petitioner(s),	)		
	)		
v.	)	Docket No. 2683-11,	2693-11,
	)	2694-11,	2695-11,
COMMISSIONER OF INTERNAL	)	2700-11,	18938-12.
REVENUE,	)		
	)		
Respondent	)		

**ORDER**

Pursuant to Tax Court Rule 155 and this Court’s opinion dated December 9, 2015, the parties in the instant cases submitted their Computations For Entry of Decision on March 29, 2016. Respondent’s computations differ from petitioners’ in that adjustments are made to the deductions claimed by petitioners for expenses related to the conservation easements previously in issue.

The parties stipulated that petitioners deducted \$106,525 of expenses in connection with a 2003 Easement, and \$101,931 of expenses in connection with a 2005 Easement. The parties also stipulated that these deducted amounts included: \$30,000 in fees paid to Green Stripe Ltd. in relation to the 2003 Easement; fees paid to the law firm of Schell Bray, et al, for services related to the Easements; fees paid to the accounting firm of Dixon and Odom for accounting services related to the Easements; donations to the North American Land Trust, in part, for the future monitoring of the Easements; and fees paid to F. Bruce Sauter for appraisals of both of the Easements.

The parties did not, however, stipulate as to details of the services provided or, with the exception of Green Stripe Ltd., the amounts paid to each of the payees. Neither did the parties stipulate that the amounts paid to the above payees totaled

the amounts deducted by petitioners. Respondent contends that without these stipulations, respondent's determination of a zero value for the expenses is presumed correct, and that petitioners have failed to produce the necessary evidence to overcome the presumption and support a different determination.

Pursuant to I.R.C. secs. 211 and 212, taxpayers may deduct ordinary and necessary expenses incurred in connection with the determination, collection, or refund of any tax. We have held that appraisal fees and other ordinary and necessary expenses incurred to determine a taxpayer's tax liability resulting from a charitable contribution may be deductible under I.R.C. sec. 212(3). Tempel v. Commissioner, 136 TC 341, 352-53 (2011). Ordinary and necessary expenses may also include consultants' fees, accountants' fees, and tax counsels' fees. Neely v. Commissioner, 85 TC 934, 951 (1985); Treas. Reg. § 1.212-1(1).

Respondent stipulated that petitioners deducted appraisal, consulting, legal, and accounting fees that were "related to the Easements". The fact that the accountants also provided business services and that the returns were self-prepared are not inconsistent with the stipulations; petitioners stipulated that they deducted only those fees paid in relation to the Easements, and there are plenty of accounting services to be provided apart from return preparation. In the instant cases, respondent provides no reason to set aside the stipulations and find that petitioners incurred expenses to "implement" the Easements but not to "determine" the tax liability related to the Easements.

Respondent also contends that petitioners may have deducted fees paid to payees other than those listed in the stipulations, because each amount paid was not stipulated. This contention does not apply to fees paid to Green Stripe Ltd. Regarding the remaining fees, in the event that a taxpayer establishes that a deductible expense has been paid, as in this case through stipulations, but is unable to substantiate the precise amount, we generally may estimate the amount of the deductible expense. The taxpayer must present sufficient evidence to provide some basis upon which an estimate may be made. Gorokhovskiy v. Commissioner, T.C. Memo. 2012-206, 2012 WL 3010569 at \*4. Through the stipulations and testimony as discussed in our Opinion, petitioners have provided sufficient evidence to support an estimate of between \$20,000 and \$25,000 in fees paid for each easement to the four remaining payees: attorneys, accountants, NALT, and appraisers.

Additionally, petitioners disagree with respondent's computation of interest from the date the taxes were due to March 20, 2016, contending that the computation fails to take into account a deposit made by petitioners. We reserve judgment on the interest matter until the parties file Amended Computations For Entry of Decision pursuant to this Order. Accordingly, it is

ORDERED that petitioners are entitled to the deductions claimed for expenses related to the conservation easements. It is further

ORDERED that, on or before May 23, 2016, each party shall file an Amended Computation For Entry of Decision.

**(Signed) Thomas B. Wells  
Judge**

Dated: Washington, D.C.  
April 22, 2016