

UNITED STATES TAX COURT
WASHINGTON, DC 20217

DRC

KEVIN M. FLYNN & JENNIFER M. FLYNN,)
)
 Petitioners,)
)
 v.) Docket No. 4085-16S
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent.)

ORDER AND DECISION

This case for the redetermination of a deficiency is before the Court on respondent's motion for summary judgment, filed June 28, 2016. Petitioners' objections to respondent's motion are embodied in their response, filed September 2, 2016. Respondent's motion was heard in Washington, D.C. on October 11, 2017. Joseph T. Maher, Jr., appeared on behalf of respondent and argued in support of the motion. Kevin M. Flynn appeared, unrepresented, and opposed it.

Taking into account the submissions of the parties and the presentations made at the hearing, we are satisfied that respondent is entitled to decision as a matter of law on the basis of the undisputed facts summarized in the following paragraphs. See Rule 121.¹

There is no alternative minimum tax liability reported on petitioners' timely filed 2013 joint Federal income tax return. Taking into account the adjustments required in the computation of petitioners' alternative minimum taxable income as required in section 56 gives rise to an alternative minimum tax liability of \$6,281 as imposed by section 55. Nothing submitted by petitioners suggests that the computation of their alternative minimum taxable income or their alternative minimum tax liability is not consistent with the above-referenced sections of the Internal Revenue Code. After a concession by respondent, the deficiency that

¹Rule references are to the Tax Court Rules of Practice and Procedure, available on the Internet at www.ustaxcourt.gov. Section references are to the Internal Revenue Code of 1986, as amended and in effect for the relevant period.

remains in dispute consists entirely of the above-referenced alternative minimum tax liability.

According to petitioners, they should not be held liable for the portion of the deficiency attributable to the alternative minimum tax because the alternative minimum tax was never intended to apply to the class of taxpayers that describes their financial status. At the hearing Mr. Flynn noted that the alternative minimum tax originally applied to only “100” taxpayers, and over the years more than “four million” taxpayers, including petitioners, became subject to the tax. We’re not sure of the numbers, but appreciate his point. Nevertheless, as he was advised at the hearing, the Court is bound to apply the law as written; petitioners’ complaint about the expanded application of the alternative minimum tax needs to be made to the Congress, not to the Tax Court. See Metzger Trust v. Commissioner, 76 T.C. 42, 80 (1981) affd. 693 F.2d 459 (5th Cir. 1982).

Otherwise, petitioners were given ample opportunity to perfect their suggestion that respondent’s motion should be denied because of additional, yet to be plead issues that they intended to raise. At the hearing Mr. Flynn confirmed that there are no such issues.

That being so, for the reasons set forth in respondent’s motion, and for cause set forth more fully in the transcript of the proceedings, it is

ORDERED that respondent’s motion is granted. It is further

ORDERED and DECIDED that there is a \$6,281 deficiency in petitioners’ 2013 Federal income tax.

(Signed) Lewis R. Carluzzo
Special Trial Judge

ENTERED: **OCT 26 2017**