

1-28-13 NY, NY  
Halpern

JPH

**ORIGINAL**

**UNITED STATES TAX COURT**

ERNEST & BARBARA KAFKA,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 26119-09
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent.	)	

**DECISION**

Pursuant to the stipulation of the parties in this case, and incorporating herein the facts stipulated by the parties as the findings of the Court, it is

ORDERED AND DECIDED: That there is a deficiency in income tax due from petitioners for the taxable year 2003 in the amount of \$105,055.00 and that there is an overpayment in income tax for the taxable year 2003 in the amount of \$107,681.16, which amount was paid on March 27, 2009, and for which amount a claim for refund could have been filed, under the provisions of I.R.C. § 6511(b)(2), on August 4, 2009, the date of the mailing of the notice of deficiency;

That there is a deficiency in income tax due from petitioners for the taxable year 2004 in the amount of \$21,963.00 and that there is an overpayment in income tax for the taxable year 2004 in the amount of \$17,139.79, which amount was paid on March 27, 2009, and for which amount a claim for refund could have been filed, under the provisions of I.R.C. § 6511(b)(2), on August 4, 2009, the date of the mailing of the notice of deficiency; and

That there are no penalties due from petitioners for the taxable years 2003 and 2004, under the provisions of I.R.C. § 6662.

**(Signed) Michael B. Thornton**  
**Chief Judge**

Entered: NOV 27 2012

\* \* \* \* \*

SERVED NOV 27 2012

It is hereby stipulated that the Court may enter the foregoing decision in this case in accordance with the stipulation of the parties submitted herewith.

It is further stipulated that interest will be credited or paid as provided by law on any overpayment in tax due to petitioners.

It is further stipulated that interest will accrue and be assessed as provided by law on the deficiencies due from petitioners.

It is further stipulated that interest on the deficiency for the taxable year 2003 is suspended pursuant to I.R.C. § 6404(g) beginning on October 15, 2005, and ending on October 8, 2008.

It is further stipulated that interest on the deficiency for the taxable year 2004 is suspended pursuant to I.R.C. § 6404(g) beginning on October 17, 2005, and ending on October 8, 2008.

It is further stipulated that, effective upon the entry of this decision by the Court, petitioners waive the restrictions contained in I.R.C. § 6213(a) prohibiting assessment of the deficiencies (plus statutory interest) until the decision of the Tax Court becomes final.

WILLIAM J. WILKINS  
Chief Counsel  
Internal Revenue Service

*Reuben Muller*

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Date: \_\_\_\_\_

*11/14/12*

Date: \_\_\_\_\_

**NOV 15 2012**