

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

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

**ORDER**

This case for the redeterminations of deficiencies is before the Court on Petitioners' Motion for Partial Summary Judgment, filed April 19, 2011, and Respondent's Motion for Partial Summary Judgment, filed June 24, 2011. The response filed by each party to the other's motion for partial summary judgment, respondent's responses to petitioners' first and second requests for admissions, not to mention the pleadings, including petitioners' amendment to petition and respondent's answer thereto (both filed after the summary judgment motions here under consideration) strongly suggest that there are material facts in dispute regarding petitioners' entitlement to the charitable contribution deductions here in dispute (disputed issues). That being so, and in the absence of a stipulation of facts showing the parties' agreement on the many facts that appear to be in dispute, summary disposition of the disputed issues is not appropriate. See Rule 121, Tax Court Rules of Practice and Procedure.

Premises considered, it is

ORDERED that both motions are denied.

**(Signed) Lewis R. Carluzzo**  
**Special Trial Judge**

Dated: Washington, D.C.  
February 16, 2012

**SERVED Feb 16 2012**