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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JERRALD VAN WYKE,</p> <p style="text-align: center;">Petitioner - Appellant,</p> <p style="text-align: center;">v.</p> <p>COMMISSIONER OF INTERNAL REVENUE,</p> <p style="text-align: center;">Respondent - Appellee.</p>
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No. 07-73995

Tax Ct. No. 5258-07

MEMORANDUM\*

Appeal from a Decision of the  
United States Tax Court

Submitted January 13, 2009\*\*

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Jerrald Van Wyke appeals pro se from the tax court's order dismissing the action for lack of subject matter jurisdiction. We have jurisdiction under 26 U.S.C.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

§ 7482(a)(1). We review de novo. *Abrams v. Comm 'r*, 814 F.2d 1356, 1357 (9th Cir. 1987) (per curiam). We affirm.

The tax court properly concluded that it lacked jurisdiction because Van Wyke was never issued a Notice of Deficiency or a Notice of Determination. *See* 26 U.S.C. §§ 6213(a), 6330(d); *Abrams*, 814 F.2d at 1357 (holding that a pre-filing notification letter from the Internal Revenue Service was not a Notice of Deficiency, and therefore, the Tax Court had no jurisdiction over the taxpayer's petition).

Van Wyke's remaining contentions are unpersuasive.

**AFFIRMED.**