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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KENNETH E. BEATTY, Jr.,

Petitioner - Appellant,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent - Appellee.

No. 07-72873

Tax Ct. No. 4242-06L

MEMORANDUM*

Appeal from a decision of the
United States Tax Court
Stephen J. Swift, Judge, Presiding

Submitted February 18, 2009**

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Kenneth E. Beatty, Jr., appeals pro se from the tax court’s summary judgment permitting the Commissioner of Internal Revenue (“Commissioner”) to proceed with an action to collect Beatty’s federal income tax liabilities for 1999

* 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).

and 2000. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We review de novo the tax court's legal conclusions and for clear error its findings of fact. *Charlotte's Office Boutique v. Comm'r*, 425 F.3d 1203, 1211 (9th Cir. 2005). We review de novo a grant of summary judgment. *Miller v. Comm'r*, 310 F.3d 640, 642 (9th Cir. 2002). We affirm.

Beatty was precluded from challenging the tax liabilities for 1999 and 2000 because he had disputed his tax liability previously in the tax court. *See* 26 U.S.C. § 6330(c)(2)(B) (permitting challenge to the underlying tax liability if the taxpayer “did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.”).

Beatty's contention that he was improperly denied a face-to-face collection due process (“CDP”) hearing is unavailing because “[a] CDP hearing may, but is not required to, consist of a face-to-face meeting.” 26 C.F.R. § 301.6330-1(d)(2)(A-D6). Further, Beatty failed to respond to requests to provide detailed documentation as to the issues he wished to raise at the hearing and failed to raise a valid challenge to the proposed levy. *See* 26 C.F.R. § 301.6330-1(d)(2)(A-D7) (stating that a taxpayer who presents relevant, non-frivolous arguments in the CDP hearing request will ordinarily be offered the

opportunity for a face-to face conference).

Beatty's remaining contentions, including those regarding the admissibility of supposedly new evidence, are not persuasive.

We reject Beatty's motion for reconsideration of this court's January 23, 2009 order.

AFFIRMED.