

DEC 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAN L. ASHLOCK,

Petitioner - Appellant,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent - Appellee.

No. 08-72570

Tax Ct. No. 8778-06L

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and W. FLETCHER, Circuit Judges.

Jan L. Ashlock appeals pro se from the Tax Court’s decision concluding that the Commissioner of Internal Revenue (“Commissioner”) did not abuse his discretion by rejecting Ashlock’s offer in compromise related to her income tax liabilities for 1996 and 2000–2003. We have jurisdiction under 26 U.S.C.

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

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

§ 7482(a). On appeal from the Tax Court, we review for an abuse of discretion the Commissioner's decision whether to accept an offer in compromise and review for clear error the Commissioner's assessment of the facts. *Keller v. Comm'r*, 568 F.3d 710, 716 (9th Cir. 2009). We affirm.

The Commissioner's finding that Ashlock had a \$25,000 dissipated property interest was not clearly erroneous in light of the conflicting evidence in the record before the Commissioner as to Ashlock's interest in the property. *See United States v. Hinkson*, 585 F.3d 1247, 1262 (9th Cir. 2009) (en banc) (a finding is clearly erroneous if it is illogical, implausible, or without support in inferences that may be drawn from the record). We may not consider evidence submitted on appeal that was not part of the record before the Commissioner. *See Keller*, 568 F.3d at 718.

In light of his finding, the Commissioner did not abuse his discretion by rejecting Ashlock's offer in compromise on the ground that a minimally acceptable offer would have included the value of the dissipated property interest. *See id.* at 716-18 (discussing offers in compromise); *see also* Internal Revenue Manual § 5.8.5.4 (providing that a dissipated asset may be included in the valuation of a minimally acceptable offer).

AFFIRMED.