

DEC 27 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SUZANNE T. BRAY,

Petitioner - Appellant,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent - Appellee.

No. 08-73350

Tax Ct. No. 21034-05L

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted December 14, 2010**

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

Suzanne T. Bray appeals from the Tax Court’s decision sustaining the determination of the Commissioner of Internal Revenue (“Commissioner”) to proceed with the collection of Bray’s income tax liabilities for 2000–2002. We have jurisdiction under 26 U.S.C. § 7482(a). We review de novo the Tax Court’s

* 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).

legal conclusions and for clear error its factual findings. *Keller v. Comm'r*, 568 F.3d 710, 716 (9th Cir. 2009). We affirm.

Bray contends that the Tax Court committed reversible error by failing to explicitly address her argument that the Commissioner improperly requested her to submit a financial statement in violation of Internal Revenue Code § 7122(d)(3)(B)(ii). Section 7122 only applies where a taxpayer makes an offer in compromise and, as Bray stipulated in the Tax Court, she never made such an offer. Thus, Bray's contention is unavailing, and the Tax Court's failure to expressly address the argument is not grounds for reversal.

AFFIRMED.