

DEC 27 2010

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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EARL PLUARD,

Petitioner - Appellant,

v.

COMMISSIONER OF INTERNAL  
REVENUE,

Respondent - Appellee.

No. 09-70536

Tax Ct. No. 16201-07L

MEMORANDUM\*

Appeal from a Decision of the  
United States Tax Court

Submitted December 14, 2010\*\*

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

Earl Pluard appeals pro se from the tax court's order dismissing his petition for lack of subject matter jurisdiction. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We review de novo. *Abrams v. Comm'r*, 814 F.2d 1356, 1357 (9th Cir. 1987) (per curiam). We affirm.

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

The tax court properly concluded that it lacked jurisdiction because Pluard 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).

Pluard's remaining contentions are unpersuasive.

**AFFIRMED.**