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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>DAVID DE HAAS,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>COMMISSIONER OF INTERNAL REVENUE,</p> <p>Respondent - Appellee.</p> |
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No. 09-71394

Tax Ct. No. 12330-07L

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted February 15, 2011**

Before: CANBY, FERNANDEZ, and M. SMITH, Circuit Judges.

David De Haas appeals pro se from the tax court’s order granting the Commissioner of Internal Revenue’s motion to dismiss De Haas’s petition contesting a Notice of Determination concerning income tax liabilities for tax years 2002 and 2003. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We review

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

for an abuse of discretion a tax court's decision to dismiss a case for lack of prosecution. *Edelson v. Comm'r*, 829 F.2d 828, 831 (9th Cir. 1987). We affirm.

The tax court did not abuse its discretion in dismissing De Haas's petition for failure to prosecute because De Haas failed to appear at trial, despite several warnings that failure to appear could result in dismissal of the petition. *See id.* (holding that the tax court did not abuse its discretion in dismissing the taxpayers' petitions for failure to prosecute where the taxpayers had, among other things, failed to appear for trial).

De Haas's remaining contentions are unpersuasive.

AFFIRMED.