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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WADE VINCENT SHANG,

Petitioner,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

No. 09-71761

Tax Ct. No. 20910-06

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted February 15, 2011**

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

Wade Vincent Shang appeals pro se from the tax court's summary judgment upholding deficiencies and penalties sought by the Commissioner of Internal Revenue for tax years 1996, 1998, and 1999. We have jurisdiction under 26

* 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, and therefore denies Shang's request. *See Fed. R. App. P. 34(a)(2)*.

U.S.C. § 7482(a)(1). We review de novo. *Miller v. Comm'r*, 310 F.3d 640, 642 (9th Cir. 2002). We affirm.

The tax court properly granted summary judgment because Shang failed to raise a genuine issue of material fact regarding the appropriateness of the tax deficiencies and penalties levied against him. *See* Tax Ct. R. 90(c) (requests for admission to which a taxpayer untimely responds are deemed admitted); *Smith v. Comm'r*, 800 F.2d 930, 935 (9th Cir. 1986) (affirming based on admissions under Tax Court Rule 90(c)). The district court also properly concluded that, in light of Shang's prior criminal tax fraud conviction for 1996 and 1998, collateral estoppel barred him from denying liability for civil fraud. *See McQuillion v. Schwarzenegger*, 369 F.3d 1091, 1096 (9th Cir. 2004) (describing elements of collateral estoppel).

Shang's remaining contentions are unpersuasive.

We do not consider whether the tax court erred by entering admissions against Shang or granting summary judgment sua sponte because Shang does not address these issues on appeal. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999).

AFFIRMED.