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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT LESHIN; VIENNA LESHIN, Petitioners - Appellants, v. COMMISSIONER OF INTERNAL REVENUE, Respondent - Appellee.	No. 09-70399 Tax Ct. No. 17709-06L MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted May 24, 2011**

Before: PREGERSON, THOMAS, and PAEZ, Circuit Judges.

Robert and Vienna Leshin appeal from the Tax Court's decision after a trial upholding the IRS Office of Appeals' determination sustaining a tax lien for their unpaid federal income taxes for 2001, and rejecting their offer-in-compromise for income tax liabilities from 1999 through 2004. We have jurisdiction under 26

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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).

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

The Office of Appeals did not clearly err in its factual findings underlying the calculation of the Leshins' reasonable collection potential, which exceeded the Leshins' offer-in-compromise. Accordingly, the Office of Appeals did not abuse its discretion by rejecting the offer. *See id*. at 717-18 (no abuse of discretion in rejecting taxpayers' offer-in-compromise where reasonable collection potential exceeded offer). Although the Office of Appeals made mistakes in calculating the Leshins' necessary living expenses, the mistakes were harmless because the Commissioner of Internal Revenue corrected the mistakes in the Tax Court and showed that, with the corrections, the Leshins' offer was still far below their reasonable collection potential. *See id.* at 718.

The Leshins' remaining contentions are unpersuasive.

We do not consider documents that were not part of the record before the Office of Appeals. *See id.*

AFFIRMED.