

JUL 25 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARC PRETSCHER,

Petitioner - Appellant,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent - Appellee.

No. 08-75060

Tax Ct. No. 17500-07L

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted July 12, 2011**

Before: SCHROEDER, ALARCÓN, and LEAVY, Circuit Judges.

Marc Pretscher appeals pro se from the Tax Court’s summary judgment allowing the Commissioner of Internal Revenue (“Commissioner”) to proceed with its collection action. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We review de novo. *Miller v. Comm’r*, 310 F.3d 640, 642 (9th Cir. 2002). We affirm.

* 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 granted summary judgment for the Commissioner because Pretscher failed to raise a genuine dispute of material fact as to whether the proposed collection action for tax years 2001 through 2004 should not proceed. *See Hansen v. United States*, 7 F.3d 137, 138 (9th Cir. 1993) (per curiam); *Hughes v. United States*, 953 F.2d 531, 535 (9th Cir. 1992).

Pretscher's contention that he was improperly denied a face-to-face collection due process hearing is unavailing because "[a] CDP hearing may, but is not required to, consist of a face-to-face meeting. . . ." 26 C.F.R. § 301.6330-1(d)(2) (Q & A D6).

The record does not support Pretscher's contention that the Tax Court considered evidence outside the administrative record.

Pretscher's remaining contentions are unpersuasive.

AFFIRMED.