

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>AL PIERRO,</p> <p style="text-align: center;">Petitioner - Appellant,</p> <p>v.</p> <p>COMMISSIONER OF INTERNAL REVENUE,</p> <p style="text-align: center;">Respondent - Appellee.</p>

No. 10-70074

Tax Ct. No. 18809-07

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Al Pierro appeals pro se from the Tax Court’s decision upholding the Commissioner of Internal Revenue’s determination of a deficiency and additions to tax for tax year 2002. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We

* 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).

review de novo the Tax Court's legal conclusions, and for clear error its factual findings. *Hardy v. Comm'r*, 181 F.3d 1002, 1004 (9th Cir. 1999). We affirm.

The Tax Court properly upheld the Commissioner's tax determination because the evidence at trial established that \$12,500 was paid to the Internal Revenue Service ("IRS") on Pierro's behalf in 2002, but he did not file a tax return for that year or pay the taxes due on that amount. *See Old Colony Trust Co. v. Comm'r*, 279 U.S. 716, 729 (1929) (payments made directly to IRS on taxpayer's behalf constitute taxable income to the taxpayer); *see also* 26 U.S.C. § 6651(a)(1), (a)(2) (providing for additions to tax where taxpayer fails, without reasonable cause, timely to file a tax return or to pay the taxes due).

Pierro's remaining contentions are unpersuasive.

AFFIRMED.