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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>AL PIERRO,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>COMMISSIONER OF INTERNAL REVENUE,</p> <p>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.