

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 5 2016

FOR THE NINTH CIRCUIT

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

STEVEN T. WALTNER,

Petitioner-Appellant,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent-Appellee.

No. 14-71531

Tax Ct. No. 21953-12L

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted September 27, 2016**

Before: TASHIMA, SILVERMAN, and M. SMITH, Circuit Judges.

Steven T. Waltner appeals from the Tax Court's order imposing a penalty under 26 U.S.C. § 6673. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We review for an abuse of discretion, *Wolf v. Comm'r*, 4 F.3d 709, 716 (9th Cir. 1993), and we affirm.

* 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).

The Tax Court did not abuse its discretion by imposing a \$2,500 penalty on Waltner for taking frivolous positions after warning Waltner that such conduct could lead to sanctions. *See* 26 U.S.C. § 6673(a)(1) (authorizing penalty not to exceed \$25,000 for maintaining a position that is frivolous or groundless in a Tax Court proceeding); *Wolf*, 4 F.3d at 716 (“When taxpayers are on notice that they may face sanctions for frivolous litigation, the tax court is within its discretion to award sanctions under section 6673.”).

We reject as without merit Waltner’s contention that the Tax Court lacked jurisdiction to impose sanctions because Waltner did not point to any authority that supports his contention, and reject as unsupported by the record Waltner’s contention that the Tax Court violated his due process rights by imposing sanctions.

AFFIRMED.