

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 21 2016

FOR THE NINTH CIRCUIT

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

ROBERT M. HERRERA,

Petitioner-Appellant,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent-Appellee.

No. 15-70139

Tax Ct. No. 15895-14L

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court

Submitted November 16, 2016**

Before: LEAVY, BERZON, and MURGUIA, Circuit Judges.

Robert M. Herrera appeals pro se from the Tax Court's order dismissing for lack of jurisdiction his action related to his 2008 tax liability. We have jurisdiction under 26 U.S.C. § 7482(a). We review de novo, *Gorospe v. Comm'r*, 451 F.3d 966, 968 (9th Cir. 2006), 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 properly concluded that it lacked jurisdiction over Herrera's petition because Herrera did not file it within 90 days of a notice of deficiency or 30 days of a notice of determination. *See* 26 U.S.C. §§ 6213(a) (establishing a 90-day requirement for appealing a notice of deficiency); 6320(c) & 6330(d)(1) (establishing a 30-day requirement for appealing a notice of determination concerning notices of lien or notices of intent to levy); *Gorospe*, 451 F.3d at 968 (the Tax Court is a court of limited jurisdiction, and its subject matter is defined by Title 26 of the United States Code).

We do not consider Herrera's contention, raised for the first time on appeal in this case, that the Internal Revenue Service sent his mail to an incorrect address. *See Kochansky v. Comm'r*, 92 F.3d 957, 959 (9th Cir. 1996).

We lack jurisdiction to consider Herrera's contentions regarding the Tax Court decisions in Nos. 15717-10, 26902-10, and 29326-11 because Herrera did not file a notice of appeal from those decisions. *See* Fed. R. App. P. 13(a)(1); 26 U.S.C. § 7483 ("Review of a decision of the Tax Court shall be obtained by filing a notice of appeal[.]").

AFFIRMED.