

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

February 12, 2009

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No. 08-60663  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

JASON R CARROLL; PAMELA L CARROLL

Petitioners - Appellants

v.

COMMISSIONER OF INTERNAL REVENUE

Respondent - Appellee

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Appeal from a Decision  
of the United States Tax Court  
Cause No. 2052-08

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Before KING, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:\*

In a careful opinion which addressed all the taxpayer's arguments, the Tax Court granted the motion of the Commissioner of Internal Revenue (Commissioner) to dismiss the taxpayer's petition for lack of jurisdiction. The notices of deficiency at issue here were mailed to the taxpayer on October 19, 2007. Under I.R.C. § 6213(a), a petition is required to be filed in the Tax Court

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No.

within ninety days of the issuance of the notice of deficiency, here January 17, 2008. The taxpayer's petition was filed on January 22, 2008. The Tax Court therefore lacked jurisdiction. The taxpayer continues to argue that the Commissioner failed to prove that the notices of deficiency were mailed on October 19, 2007. The Tax Court opinion dealt thoroughly and correctly with that issue. Since the taxpayer failed to provide clear evidence that the notices of deficiency were not, in fact, mailed on October 18, 2007, his arguments fail.

AFFIRMED.