

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 16 2022

FOR THE NINTH CIRCUIT

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

BRENT JACKSON,

No. 21-71236

Petitioner-Appellant,

Tax Ct. No. 2429-20

v.

MEMORANDUM*

COMMISSIONER OF INTERNAL
REVENUE,

Respondent-Appellee.

Appeal from a Decision of the
United States Tax Court

Submitted December 8, 2022**

Before: WALLACE, TALLMAN, and BYBEE, Circuit Judges.

Brent Jackson appeals pro se from the Tax Court's order dismissing for failure to state a claim his petition challenging the Commissioner of Internal Revenue's notice of tax deficiency for the 2012 tax year. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We review de novo. *Grimes v. Comm'r*, 806 F.2d

* 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).

1451, 1453 (9th Cir. 1986). We affirm.

The Tax Court properly dismissed Jackson's petition for failure to state a claim because Jackson failed to set forth a clear and concise assignment of error or any facts demonstrating error in the Commissioner's determinations. Tax Ct. R. 34(b)(4); *United States v. Buras*, 633 F.2d 1356, 1361 (9th Cir. 1980) (explaining that "the Sixteenth Amendment is broad enough to grant Congress the power to collect an income tax regardless of the source of the taxpayer's income").

In his opening brief, Jackson fails to address the Tax Court's imposition of a \$10,000 penalty for filing a frivolous petition and has therefore waived his challenge to the Tax Court's order with respect to that issue. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) ("[W]e will not consider any claims that were not actually argued in appellant's opening brief."); *Acosta-Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1993) (issues not supported by argument on a pro se appellant's opening brief are waived).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments or allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Jackson's request for the return of his tax court filing fee, set forth in the opening brief, is denied.

AFFIRMED.