

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 99-4039

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Charles Robert Schetzer,

Appellant,

v.

Commissioner of Internal Revenue,

Appellee.

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Appeal from the United States  
Tax Court.

[UNPUBLISHED]

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Submitted: July 6, 2001

Filed: July 24, 2001

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Before MORRIS SHEPPARD ARNOLD, RICHARD S. ARNOLD, and FAGG,  
Circuit Judges.

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PER CURIAM.

Charles Robert Schetzer appeals a tax court decision upholding the constitutionality of a tax statute used to assess tax deficiencies against Schetzer. Because we do not have jurisdiction to consider Schetzer's appeal, we dismiss. Although Schetzer filed his notice of appeal with this court within 90 days of the tax court's decision, the Federal Rules of Appellate Procedure required Schetzer to file his notice of appeal with the tax court clerk and do not make an exception for tax court appeals mistakenly filed with this court. See Fed. R. App. P. 13(a)(1), 14; cf. Fed. R.

App. P. 4(d). Although the government takes a different view, we do not believe 28 U.S.C. § 1631 cures the jurisdictional defect in this case. See 28 U.S.C. § 610 (as used in § 1631, term "courts" applies only to courts of appeal, district courts, and certain other courts; it does not apply to tax courts).

We thus dismiss Schetzer's appeal for lack of jurisdiction and deny his pending motion as moot.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.