

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-1912

ROBERT EMMETT ROBERTSON, III,

Petitioner - Appellant,

versus

COMMISSIONER OF INTERNAL REVENUE,

Respondent - Appellee.

Appeal from the United States Tax Court. (Tax Ct. No. 96-20076)

Submitted: November 29, 2001

Decided: December 5, 2001

Before WIDENER, NIEMEYER, and WILLIAMS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Robert Emmett Robertson, Appellant Pro Se. Ann Belanger Durney,
Randolph L. Hutter, UNITED STATES DEPARTMENT OF JUSTICE, Washing-
ton, D.C., for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Robert Emmett Robertson, III, seeks to appeal the tax court's orders determining deficiencies and penalties with respect to his 1981, 1982, 1984, and 1985 federal income tax liability. We dismiss the appeal for lack of jurisdiction because Robertson's notice of appeal was not timely filed.

A party must file a notice of appeal within ninety days after the tax court enters its decision. 26 U.S.C. § 7483 (1994); Fed. R. App. P. 13(a). This appeal period is jurisdictional. Spencer Med. Assoc. v. Commissioner, 155 F.3d 268, 269 (4th Cir. 1998). The tax court's order was entered on the docket on January 25, 2001. Robertson filed a timely motion to vacate or revise the decision, Tax Ct. R. 162, which was denied by order entered March 2, 2001. Therefore, notwithstanding his subsequent Rule 162 motions, Robertson had until May 31, 2001, to file his notice of appeal. See Okon v. Commissioner, 26 F.3d 1025, 1026-27 (10th Cir. 1994) (successive, post-decision tolling motions may not be tacked together to perpetuate the prescribed time for appeal). Robertson's notice of appeal was filed on July 10, 2001.

Accordingly, we grant the Commissioner's motion to dismiss the appeal as untimely filed. We dispense with oral argument because the facts and legal contentions are adequately presented in the ma-

terials before the court and argument would not aid the decisional process.

DISMISSED