

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-2468

NORMAN EARL HOLLY,

Petitioner - Appellant,

versus

INTERNAL REVENUE,

Respondent - Appellee.

Appeal from the United States Tax Court. (Tax Ct. No. 96-18414)

Submitted: December 17, 1998 Decided: December 30, 1998

Before WILKINS, NIEMEYER, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Norman Earl Holly, Appellant Pro Se. Jonathan Samuel Cohen,
Loretta C. Argrett, Michelle Bachand O'Connor, UNITED STATES
DEPARTMENT OF JUSTICE, Washington, D.C.; Stuart L. Brown, INTERNAL
REVENUE, Washington, D.C., for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Norman Holly noted this appeal from the tax court's decision outside the ninety-day appeal period established by Fed. R. App. P. 13(a). See also 26 U.S.C. § 7483 (1994). The tax court entered its final decision on June 23, 1998; Holly filed his notice of appeal in this court on September 23, 1998, which then forwarded the notice to the tax court. Holly did not timely move to vacate or revise the decision in accordance with Tax Ct. R. 162. Holly's failure to note a timely appeal deprives this court of jurisdiction to consider this case. See Spencer Med. Assoc. v. Commissioner, 155 F.3d 268, 269 (4th Cir. 1998). We therefore grant the Commissioner's motion and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED