

## OHIO BOARD OF TAX APPEALS

Rene and Kathy Visscher,	)	CASE NO. 2008-H-2180
	)	
Appellants,	)	(PERSONAL INCOME TAX)
	)	
vs.	)	DECISION AND ORDER
	)	
Richard A. Levin,	)	
Tax Commissioner of Ohio,	)	
	)	
Appellee.	)	

APPEARANCES:

For the Appellants		- Rene and Kathy Visscher, pro se 116 West Sterling Place Pueblo West, Colorado 81007
For the Appellee		- Richard Cordray Attorney General of Ohio Lawrence D. Pratt Senior Deputy Attorney General State Office Tower, 25th Floor 30 East Broad Street Columbus, Ohio 43215

Entered February 6, 2009

Ms. Margulies, Mr. Eberhart and Mr. Dunlap concur.

This matter is before the Board of Tax Appeals pursuant to an order requiring appellants to show cause as to why the instant matter should not be dismissed. Appellants Rene and Kathy Visscher did not file a timely response to this board's order.

Appellants appealed to this board from notices of assessment from the Ohio Department of Taxation. On December 19, 2008, the Tax Commissioner filed a certification that provides, in pertinent part:

“The Tax Commissioner received a letter from the Board of Tax Appeals stating that it had received and docketed a notice of appeal filed by the Appellant.

“A diligent search of all of the records of the Department of Taxation failed to disclose any record of a Final Determination issued by the Tax Commissioner in the matter of Personal Income Tax, for assessment nos. 02200816532501 and 0220711472183, issued prior to November 3, 2008, to Rene and Kathy Visscher. There is no jurisdictional basis for an appeal since no final order has been issued and no proceeding has been held before the Tax Commissioner.”

The powers and duties of the Board of Tax Appeals are provided in R.C.

5703.02. That section provides:

“There is hereby created the board of tax appeals which shall exercise the following powers and perform the following duties:

“(A) Exercise the authority provided by law to hear and determine all appeals of questions of law and fact arising under the tax laws of this state in appeals from decisions, orders, determinations or actions of any tax administrative agency established by the law of this state, including but not limited to appeals from:

“\*\*\*

“(4) Final determinations by the tax commissioner of any preliminary, amended, or final tax assessments, reassessments, valuations, determinations, findings, computations, or orders made by him; \*\*\*.”

Consequently, this board has the power to review determinations made by the Tax Commissioner after such determinations have been the subject of a review by the commissioner’s appeals process and reduced to a final determination. *French v.*

*Limbach* (1991), 59 Ohio St.3d 153, 514; *Waddell v. Limbach* (Sept. 2, 1988), BTA No. 1988-A-189, unreported.

Strict compliance with the tax laws of this state is essential to vest jurisdiction upon this board. See, e.g., *American Restaurant & Lunch Co. v. Glander* (1946), 147 Ohio St. 147; *Zephyr Room, Inc. v. Bowers* (1955), 164 Ohio St. 287; *Fineberg v. Kosydar* (1975), 44 Ohio St.2d 1; *Clippard Instrument v. Lindley* (1977), 50 Ohio St.2d 121.

Based on the record before us, we find that there is no final determination of the Tax Commissioner from which the appellants may appeal. Therefore, appellants have failed to invoke the jurisdiction of this board. Accordingly, it is the decision and order of the Board of Tax Appeals that the notice of appeal filed by the appellants be dismissed.

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