

OHIO BOARD OF TAX APPEALS

Norman Stutler,)	CASE NO. 2008-M-2441
)	
Appellant,)	(SALES TAX)
)	
vs.)	DECISION AND ORDER
)	
Richard A. Levin,)	
Tax Commissioner of Ohio,)	
)	
Appellee.)	

APPEARANCES:

For the Appellant-	Norman Stutler, pro se 890 Jones Road Kershaw, North Carolina 29067
For the Appellee- Tax Commissioner	Richard Cordray Attorney General of Ohio Lawrence Pratt Assistant Attorney General Taxation Section 30 E. Broad Street, 25 th Floor Columbus, Ohio 43215

Entered April 28, 2009

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

This matter is before the Board of Tax Appeals pursuant to a show cause order issued by this board on January 27, 2009. It appears from the certification filed by the Tax Commissioner on January 26, 2009, that the Tax Commissioner had issued a sales tax assessment to appellant, but had not been asked to review that assessment. Instead, appellant has attempted to challenge a sales tax assessment directly to this board.

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. *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 71.

Appellant’s notice of appeal has attached to it a Department of Taxation notice of sales tax assessment, dated November 17, 2008. However, a sales tax assessment is not the same as a final determination from the Tax Commissioner. A final

determination issues after the Tax Commissioner reviews the sales tax assessment pursuant to R.C. 5739.13(B), which requires the party assessed to file with the commissioner a written petition for reassessment. It is this step of the challenge process that the Tax Commissioner claims was not completed. Without challenging first to the Tax Commissioner, the appellant has failed to perfect his appeal with this board.

There has been no response from the appellant. Consequently, the board finds that there has been no final determination issued by the Tax Commissioner. As this board is legislatively directed to review final determinations of the Tax Commissioner, we are without authority to rule on appellant's appeal. The appeal herein is ordered dismissed.

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