

OHIO BOARD OF TAX APPEALS

Acom Solutions, Inc.,)	
)	
Appellant,)	CASE NO. 2009-A-245
)	
vs.)	(INCOME WITHHOLDING TAX)
)	
Richard A. Levin, Tax Commissioner of Ohio,)	ORDER
)	
Appellee.)	(Requiring Appellant to Show Cause)

APPEARANCES:

For the Appellant	-	Frank A. Loera, CPP Payroll Solutions 17011 Beach Boulevard, Suite 700 Huntington Beach, CA 92647
For the Appellee	-	Richard Cordray Attorney General of Ohio Lawrence Pratt Assistant Attorney General 30 East Broad Street, 25 th Floor Columbus, Ohio 43215

Entered February 24, 2009

This appeal is now considered, sua sponte, by the Board of Tax Appeals. The notice of appeal in question was filed with this board on February 11, 2009. The taxpayer appeals from a final determination of the Tax Commissioner wherein the commissioner determined that he had no jurisdiction to consider the taxpayer's petition for reassessment because the assessed tax and interest had not been paid, pursuant to the requirements of R.C. 5747.13(E), which provides in pertinent part, as follows:

“(E) The portion of an assessment that must be paid upon the filing of a petition for reassessment shall be as follows:

“***

“(5) If the employer assessed filed, prior to the date of issuance of the assessment, the annual return required by division (E)(2) of section 5747.07 of the Revised Code covering the period at issue, and a balance of the taxes shown due on the return as computed on the return remains unpaid, payment of only that portion of the assessment representing the unpaid balance of tax and interest is required;”

From the limited record, consisting of appellant’s notice of appeal and a copy of the final determination from which the appeal is taken, it appears that the taxpayer has not paid the tax and/or interest in question and, as such, the commissioner then determined he was without jurisdiction to consider appellant’s petition for reassessment. Thus, based upon the foregoing facts, it is the order of the Board of Tax Appeals that the appellant show cause why this board should not affirm the Tax Commissioner’s dismissal of appellant’s petition for reassessment.

All parties who wish to be heard upon this issue shall file a written response to this order within fourteen days of its issuance.

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