

OHIO BOARD OF TAX APPEALS

Charles C. Rosenbaum, CPA [Karl V. Metz, M.D., Inc.], ¹)	
)	
Appellant ,)	CASE NO. 2009-A-322
)	
vs.)	(FRANCHISE TAX)
)	
Richard A. Levin, Tax Commissioner of Ohio,)	ORDER
)	
Appellees.)	(Requiring Appellant to Show Cause)

APPEARANCES:

For the Appellant - Rosenbaum & Associates, Inc.
Charles C. Rosenbaum, CPA
28001 Chagrin Boulevard, Suite 201
Cleveland, Ohio 44122

For the Appellee - Richard Cordray
Attorney General of Ohio
Lawrence Pratt
Assistant Attorney General
30 East Broad Street, 25th Floor
Columbus, Ohio 43215

Copy to - Karl V. Metz M.D., Inc.
P.O. Box 23285
Chagrin Falls, Ohio 44023-0285

Entered March 17, 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 March 2, 2009, objecting to a collection notice for a previously issued franchise tax assessment. The document

¹ The board inadvertently named the taxpayer's representative as the appellant in this matter. All future pleadings will solely refer to the taxpayer as the appellant in question.

from which the taxpayer brings its appeal is a letter from the collection agency to the taxpayer regarding the debt owed.

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

5703.02. Specifically, that section provides in pertinent part that:

“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:

“(1) Actions of county budget commissions;

“(2) Decisions of county boards of revision;

“(3) Actions of any assessing officer or other public official under the tax laws of this state;

“(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;*

“(5) Adoption and promulgation of rules of the tax commissioner.” (Emphasis added.)

The Board of Tax Appeals is a creature of statute. *Cleveland Gear Co. v. Limbach* (1988), 35 Ohio St.3d 229. As a creature of statute and administrative agency, we are limited to the powers vested in this board by statute. See *General Motors v. Limbach* (1993), 67 Ohio St.3d 90. From the face of the notice of appeal filed by appellant, it does not appear that appellant has appealed from a final

determination or other appealable assessment, valuation, finding, or order of the Tax Commissioner. Therefore, it is the order of this board, that the appellant show cause why this board should not dismiss the notice of appeal filed on behalf of Karl V. Metz, M.D., Inc., for lack of jurisdiction. All parties who wish to be heard upon the question of the legal sufficiency of the appellant's notice of appeal to establish jurisdiction with this board shall file a written response to this order within fourteen days of its issuance.

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