

OHIO BOARD OF TAX APPEALS

Jeffrey D. Schwartz,)
)
 Appellant ,) CASE NOS. 2009-A-428,
) 2009-A-429
)
 vs.) (PERSONAL INCOME TAX)
)
 Richard A. Levin, Tax Commissioner)
 of Ohio,) ORDER
)
) (Requiring Appellant to
 Appellees.) Show Cause)

APPEARANCES:

For the Appellant - Rotatori Bender Co., LPA
J. Scott Broome
800 Leader Building
526 Superior Avenue East
Cleveland, Ohio 44114-1498

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

Entered **MAR 31 2009**

These appeals are now considered, sua sponte, by the Board of Tax Appeals. The subject notices of appeal, in the form of petitions for reassessment, were filed with this board on March 18, 2009, objecting to notices of individual income tax assessment against appellant.

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 faces of the notices of appeal filed on behalf of appellant, it appears that appellant has prematurely filed notices of appeal from assessments, not final determinations, made by the Tax Commissioner. Therefore, it is the order of this board, that the appellant show cause why this board should not dismiss the notices of appeal filed on behalf of Jeffrey D. Schwartz for lack of jurisdiction. All parties who wish to be heard upon the question of the legal

sufficiency of the appellant's notices of appeal to establish jurisdiction with this board shall file a written response to this order within fourteen days of its issuance.

On behalf of the Board of Tax Appeals,
pursuant to Ohio Adm. Code 5717-1-10



Carrie C. Young
Attorney Examiner