

OHIO BOARD OF TAX APPEALS

Tandy Leather Company, LP,)	
)	
Appellant,)	CASE NO. 2009-A-949
)	
vs.)	(INCOME WITHHOLDING TAX)
)	
Richard A. Levin, Tax Commissioner of Ohio,)	ORDER
)	
Appellee.)	(Requiring Appellant to Show Cause)

APPEARANCES:

For the Appellant - Shannon L. Greene
Tandy Leather Factory, Inc.
1900 Southeast Loop 820
Forth Worth, Texas 76140-1003

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

Entered June 23, 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 June 10, 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 attachments thereto, including a copy of the final determination from which the appeal is taken, it appears that the taxpayer did not pay the tax and interest in question until on or about June 5, 2009, after the commissioner issued his final determination on May 14, 2009, in which he 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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