

OHIO BOARD OF TAX APPEALS

Ryan M. White,)	CASE NO. 2009-H-501
)	
Appellant,)	(SCHOOL DISTRICT INCOME TAX)
)	
vs.)	ORDER
)	
Richard A. Levin, Tax Commissioner of Ohio,)	(Requiring Appellant to Show Cause and Ordering Commissioner to Certify Statutory Transcript)
)	
Appellee.)	

APPEARANCES:

For the Appellant		- Ryan M. White, pro se 12194 Woodfield Circle East Pickerington, Ohio 43147
For the Appellee		- Richard Cordray Attorney General of Ohio Lawrence D. Pratt Senior Deputy Attorney General State Office Tower, 25th Floor 30 East Broad Street Columbus, Ohio 43215

Entered April 28, 2009

This appeal is now considered, sua sponte, by the Board of Tax Appeals.

In his notice of appeal, which was filed with this board on April 3, 2009, appellant disputes the amount of school district income tax owed.

However, the Tax Commissioner, in his February 27, 2009 final determination that dismisses the taxpayer's petition for reassessment, states that he had no jurisdiction to consider the taxpayer's petition because the assessed tax and interest had not been paid as required by 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:

“***

“(2) If the taxpayer *** that is assessed failed to file, prior to the date of issuance of the assessment, the annual return or report required by section 5747.08 or 5747.42 of the Revised Code, any amended return or amended report required by section 5747.10 or 5747.45 of the Revised Code for the taxable year at issue, or any report required by division (B) of section 5747.05 of the Revised Code to indicate a reduction in the amount of the credit provided under that division, payment of the assessment, including interest but not penalty, is required, except as otherwise provided under division (E)(6) or (7) of this section ***.”

From the limited record before us, consisting of appellant’s notice of appeal and a copy of the final determination from which the appeal is taken, it appears that the commissioner did not receive payment of the assessment in question and, as such, the commissioner then determined he was without jurisdiction to consider appellant’s petition for reassessment. Thus, based on the foregoing record, 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. In addition, the commissioner is ordered to file the certified transcript within fourteen days of the issuance of this order.

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