

**OHIO BOARD OF TAX APPEALS**

Randy A. Pittman, ) CASE NO. 2009-M-459  
 )  
Appellant, ) (USE TAX)  
 )  
vs. ) ORDER  
 )  
Richard A. Levin, ) (Requiring Appellant to Show Cause)  
Tax Commissioner of Ohio, )  
 )  
Appellee. )

**APPEARANCES:**

For the Appellant-	Randy A. Pittman, pro se 2207 E. 33 <sup>rd</sup> St. Cleveland, Ohio 44115
For the Appellee- Tax Commissioner	Richard Cordray Ohio Attorney General Lawrence Pratt Assistant Attorney General Taxation Section 30 E. Broad Street, 25 <sup>th</sup> Floor Columbus, Ohio 43215

Entered June 23, 2009

The above-captioned appeal is now considered, sua sponte, by the Board of Tax Appeals following a review of matters presently pending on the board’s docket. On June 19, 2009, the board received the following certification from the Tax Commissioner:

“The Final Determination issued by the Tax Commissioner on February 23, 2009, regarding the above-referenced assessment was sent by certified mail, return receipt requested, to the Appellant.

“The Final Determination was received by the Appellant on the 9<sup>th</sup> day of March 2009 by certified mail.

“The Tax Commissioner received a letter from the Board of Tax Appeals stating that it had received and docketed a notice of appeal from the Final Determination, filed by the Appellant.

“As of the 18<sup>th</sup> day of June 2009 no copy of said notice of appeal has been filed with the Tax Commissioner.”

R.C. 5717.02 provides the jurisdictional requirements to appeal from a final order of the Tax Commissioner to this board. R.C. 5717.02 reads, in pertinent part, as follows:

“Such appeals shall be taken by the filing of a notice of appeal with the board, and *with the tax commissioner if the tax commissioner’s action is the subject of the appeal* \*\*\*. The notice of appeal shall be filed within sixty days after notice of the tax assessment, reassessment, valuation, determination, finding, computation, or order by the commissioner \*\*\*.” (Emphasis added.)

The Board of Tax Appeals is an administrative agency. Manifestly, strict compliance with the tax laws of this state is essential to vest jurisdiction upon this board. *Zephyr Room Inc. v. Bowers* (1955), 164 Ohio St. 287; *Fineberg v. Kosydar* (1975), 44 Ohio St.2d 1; *Clippard Instrument v. Lindley* (1977), 50 Ohio St.2d 71.

The sixty-day requirement for filing notices of appeal is a jurisdictional prerequisite for review by this board of an action of the Tax Commissioner. Failure to comply with core jurisdictional requirements found in R.C. 5717.02 properly leads to dismissal of the petition. *Daiquiri Club, Inc. v. Peck* (1953), 159 Ohio St. 52; *Akron Standard Division v. Lindley* (1984), 11 Ohio St.3d 10; *VeriFone, Inc. v. Limbach*

(1994), 69 Ohio St.3d 699, 702.

As the appellant does not appear to have met the statutorily prescribed filing requirements, the board seeks input from the appellant as to why this matter should not be dismissed.

The parties who wish to be heard upon the question of jurisdiction must provide written argument to this board within fourteen days of the issuance of this order.

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