

**OHIO BOARD OF TAX APPEALS**

Palmer Screening & Design, LLC,	)	CASE NO. 2009-N-234
	)	
Appellant,	)	(SALES TAX)
	)	
vs.	)	ORDER
	)	
Richard A. Levin,	)	(Requiring Appellant to Show
Tax Commissioner of Ohio,	)	Cause and Requesting the Tax
	)	Commissioner to Expedite
Appellee.	)	Certified Transcript)

APPEARANCES:

For the Appellant -	Josh Palmer P.O. Box 46 North Georgetown, Ohio 44665
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For the Appellee Tax Commissioner -	Richard Cordray Attorney General of Ohio Lawrence D. Pratt Assistant Attorney General 30 East Broad Street, 25 <sup>th</sup> Floor Columbus, Ohio 43215
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Entered March 3, 2009

A review of the record in this matter indicates that Josh Palmer, apparently the owner of appellant, Palmer Screening & Design, LLC, filed what purports to be a notice of appeal with the Board of Tax Appeals on February 11, 2009.<sup>1</sup> Attached to the filing is a notice of assessment for \$754.23, which includes sales tax due, pre-assessment interest, a penalty, an additional charge, and an additional charge penalty.

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<sup>1</sup> This board issued a show cause order on February 24, 2009 in response to a separate appeal filed by appellant. The instant appeal relates to a sales tax assessment for the period of August 1, 2008 through August 31, 2008, while the earlier appeal relates to a period of July 22, 2008 through July 31, 2008.

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

5703.02. That section provides:

“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:

“\*\*\*”

“(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; \*\*\*.”

Consequently, this board has the power to review determinations made by the Tax Commissioner after such determinations have been the subject of a review by the commissioner’s appeals process and reduced to a final determination. *French v. Limbach* (1991), 59 Ohio St.3d 153, 514; *Waddell v. Limbach* (Sept. 2, 1988), BTA No. 1988-A-189, unreported.

A petition for reassessment is to be filed with the commissioner as part of his administrative review. See R.C. 5739.13. This appeal does not appear to be taken from any final action of the commissioner.

It is therefore the order of this board that appellant show cause why this board should not dismiss this appeal. Any party wishing to be heard upon the legal sufficiency of the filing to establish jurisdiction with this board shall file a written

response within fourteen (14) days of the issuance of this order. Further, this board requests that the commissioner provide an expedited transcript or certificate relating to this filing within fourteen (14) days of the issuance of this order.

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