

OHIO BOARD OF TAX APPEALS

Charles A. and Connie M. Duensing,) CASE NO. 2009-V-281
))
) Appellants,) (SCHOOL DISTRICT INCOME TAX)
))
) vs.) ORDER
))
Richard Levin, Tax Commissioner) (Requiring Appellants to
of Ohio,) Show Cause)
))
) Appellee.))

APPEARANCES:

For the Appellants - Charles A. Duensing, pro se
 Connie M. Duensing, pro se
 4635 Butler Road
 Wakeman, Ohio 44889

For the Appellee - Richard Cordray
 Attorney General of Ohio
 Sophia Hussain
 Assistant Attorney General
 Rhodes State Office Tower, 25th Floor
 30 East Broad Street
 Columbus, Ohio 43215

Entered May 19, 2009

The Board of Tax Appeals is considering this matter, sua sponte, following a review of correspondence and a “notice of corrected assessment school district tax” filed with this board on February 20, 2009. Although this filing has been treated as a notice of appeal, said filing suggests instead that it was intended by the appellants to constitute a petition for reassessment to be filed with the Tax Commissioner. Supporting this interpretation, attached to the filing is a copy of a notice of corrected assessment dated March 12, 2007.

On May 4, 2009, the Tax Commissioner certified to this board the following:

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

“A diligent search of all of the records of the Department of Taxation failed to disclose any record of a Final Determination issued by the Tax Commissioner in the matter of School District Income Tax, for Assessment No. 04200608345765, issued prior to February 20, 2009, to Charles A. & Connie M. Duensing. There is no jurisdictional basis for an appeal since no final order has been issued and no proceeding has been held before the Tax Commissioner.”

R.C. 5717.02 sets forth certain prerequisites necessary to invoke the jurisdiction of this board, providing in pertinent part:

“Such appeals shall be taken by the filing of a notice of appeal with the board, and with the tax commissioner *** within sixty days after notice of the *** determination *** by the commissioner *** has been given or otherwise evidenced as required by law.” (Emphasis added.)

As an administrative agency, strict compliance with R.C. 5717.02 is essential in order to vest this board with the authority to consider the merits of an appeal. See, e.g., *Am. Restaurant & Lunch Co. v. Glander* (1946), 147 Ohio St. 147; *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 121.

It is therefore the order of this board that the appellants show cause as to why this board should not dismiss this instant appeal. All parties who wish to be heard

upon the question of the legal sufficiency of the appellant's notice of appeal shall file a written response to this order within fourteen days of its issuance.

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