

**OHIO BOARD OF TAX APPEALS**

Peter F. Gyke, )  
 )  
 Appellant, ) (CASE NO. 2009-V-701  
 ) (PERSONAL INCOME TAX)  
 )  
 vs. ) ORDER  
 )  
 Richard Levin, Tax Commissioner ) (Requiring Appellant to  
 of Ohio, ) Show Cause)  
 )  
 Appellee. )

APPEARANCES:

For the Appellant - Peter F. Gyke, pro se  
P.O. Box 30364  
Winston-Salem, NC 27130

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

Entered June 23, 2009

The Board of Tax Appeals is considering this matter, sua sponte, following a review of correspondence and an “appeal of assessment” filed with this board on May 11, 2009. Although this filing has been treated as a notice of appeal, said filing suggests instead that it was intended by the appellant 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 assessment dated March 12, 2009.

On June 19, 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 Individual Income Tax, for Assessment No. 02200906274650, issued prior to May 11, 2009, to Peter F. Gyke. 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 appellant 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.