



cause as to why this board should not dismiss the appeal for lack of jurisdiction. The show cause order was issued upon this board's receipt of a certification from the Tax Commissioner indicating that the above-named appellant had not appealed from a final determination or order of the Tax Commissioner. Neither the appellant, Sopchak Natural Health & Wellness Center, nor the appellee Tax Commissioner filed a response to the show cause order.

A review of the record reveals that the notice of appeal was filed with this board on January 7, 2009 wherein the appellant objected to a notice of assessment regarding a corporation franchise tax for the period January 1, 2006 through December 31, 2006. However, based upon the Tax Commissioner's representations in his certification, this board must now determine whether it has jurisdiction to consider the instant appeal.

In making such determination, this board must be mindful of its powers and duties as set forth in R.C. 5703.02. Specifically, that section provides, in pertinent part, that:

“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:

“(1) Actions of county budget commissions;

“(2) Decisions of county boards of revision;

“(3) Actions of any assessing officer or other public official under the tax laws of this state;

“(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;*

“(5) Adoption and promulgation of rules of the tax commissioner.” (Emphasis added.)

The Board of Tax Appeals is a creature of statute. *Cleveland Gear Co. v. Limbach* (1988), 35 Ohio St.3d 229. As a creature of statute and as an administrative agency, we are limited to the powers vested in this board by statute. See *General Motors v. Limbach* (1993), 67 Ohio St.3d 90. Based on the existing record, it does not appear that appellant appealed from a final determination or order of the Tax Commissioner. Further, having given appellant an opportunity to clarify its intentions by responding to the show cause order, and, having received no such response, we are constrained to conclude that appellant’s filing does not constitute a notice of appeal from a final determination or other appealable order from the Tax Commissioner. Cf. *Rubber Assoc., Inc. v. Lawrence* (Apr. 6, 2001), BTA Nos. 1999-G-365, et seq., unreported; *Glastic Corp. v. Lawrence* (Mar. 31, 2000), BTA No. 1999-T-397, unreported.

Considering this board’s powers and duties, as dictated by the provisions of R.C. 5703.02, we find this board has no jurisdiction to make a determination regarding the issues raised by appellant; accordingly, we conclude that such notice of

appeal is insufficient to invoke the jurisdiction of this board. Therefore, considering the record before us, it is the decision and order of the Board of Tax Appeals that the instant matter be dismissed. See, generally, *Chef Italiano Corp. v. Kent State Univ.* (1989), 44 Ohio St.3d 86.

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