

OHIO BOARD OF TAX APPEALS

Lieber Leasing, Inc.,)
)
 Appellant,) (FRANCHISE TAX)
)
 vs.) DECISION AND ORDER
)
 William W. Wilkins,)
 Tax Commissioner of Ohio,)
)
 Appellee.)

APPEARANCES:

For the Appellant - No Appearance
Lieber Leasing, Inc.
3400 South Ridge East
Ashtabula, Ohio 44004

Notice of Appeal - Gilbert J. Lieber, President
Filed By 3400 South Ridge East
Ashtabula, Ohio 44004

For the Appellee - Jim Petro
Attorney General of Ohio
Richard Farrin
Assistant Attorney General
State Office Tower – 16th Floor
30 East Broad Street
Columbus, Ohio 43215

Entered March 11, 2005

Ms. Jackson, Ms. Margulies, and Mr. Eberhart concur.

The Board of Tax Appeals is considering this matter pursuant to a purported petition for reassessment filed on behalf of Lieber Leasing, Inc. On October 1, 2004 this board issued an order requiring the appellant to show cause why the matter should not be dismissed. No response has been filed to the show cause order.

The Tax Commissioner issued a notice of assessment against Lieber Leasing, Inc. on September 3, 2004. Instead of filing a petition for reassessment with the Tax Commissioner pursuant to R.C. 5733.11, the appellant filed the purported petition for reassessment with this board.

R.C. 5717.02 provides for appeals from final Tax Commissioner assessments with this board. That sections states:

“appeals from final determinations by the tax commissioner of any preliminary, ***, or final tax assessments, reassessments, *** may be taken to the board of tax appeals by the taxpayer, ***.”

Pursuant to this section the board’s jurisdiction is limited to reviewing final determinations of the Tax Commissioner. *French v. Limbach* (1991), 59 Ohio St.3d 153; *Rowland v. Lindley* (1979), 58 Ohio St.2d 15; *Lang, Fisher & Stashower Advertising, Inc. v. Collins* (1976), 46 Ohio St.2d 285; *Michelin Tire Corp v. Kosydar* (1974), 38 Ohio St.2d 254. The purported petition for reassessment filed with this board was not an appeal from a final determination of the commissioner.

The requirements set forth in R.C. 5717.02 governing the filing of a notice of appeal are jurisdictional and mandatory. Strict compliance is essential to invoke the jurisdiction of the Board of Tax Appeals. *House of Good Shepherd, Inc. v. Limbach* (1988), 37 Ohio St.3d 244; *Hanson Machinery Co. v. Limbach* (1986), 22 Ohio St.3d 209; *Clippard Instrument Laboratory, Inc. v. Lindley* (1977), 50 Ohio St.2d 121; *Fineberg v. Kosydar* (1975), 44 Ohio St.2d 1; *The*

Zephyr Room v. Bowers (1955), 164 Ohio St. 287; *American Restaurant & Lunch Co. v. Glander* (1946), 147 Ohio St. 147. It is factually evident that the appellant has failed to comply with the mandatory filing requirement of R.C. 5717.02. Accordingly, this matter is dismissed.

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