

STATE OF MINNESOTA
COUNTY OF RAMSEY

TAX COURT
REGULAR DIVISION

Vincent A. Hansen,
Appellant,
v.

**ORDER GRANTING THE
COMMISSIONER'S MOTION TO
DISMISS**

Commissioner of Revenue,
Appellee.

File No: 9646-R
Filed: November 6, 2024

This matter came before the Honorable Bradford S. Delapena, Judge of the Minnesota Tax Court, on appellee Commissioner of Revenue's motion to dismiss.

Appellant Vincent A. Hansen is self-represented.

Christopher Stafford and Joseph Weiner, Assistant Minnesota Attorneys General, represented appellee Commissioner of Revenue.

Appellant Vincent A. Hansen seeks to appeal four Commissioner Filed Returns ("CFRs") issued because Hansen failed to file Minnesota individual income tax returns for tax years 2016 through 2019. We grant the Commissioner's motion to dismiss for lack of subject matter jurisdiction because Hansen's Notice of Appeal is untimely as to each CFR.

Based on the files, records, and proceedings herein, the court now makes the following:

ORDER

Appellee Commissioner of Revenue's motion to dismiss is granted.

IT IS SO ORDERED. THIS IS A FINAL ORDER. LET JUDGMENT BE ENTERED
ACCORDINGLY.



BY THE COURT:

**Bradford S.
Delapena**

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Bradford S. Delapena, Judge
MINNESOTA TAX COURT

Dated: November 6, 2024

MEMORANDUM

Appellant Vincent A. Hansen failed to file Minnesota individual income tax returns for tax years 2016 through 2019. For each of those years, therefore, the Commissioner filed a CFR.¹ *See* Minn. Stat. § 270C.33, subd. 3 (2022) (“If a taxpayer fails to file a return, the commissioner ... may make and file a return for the taxpayer[.]”). Each Notice of Commission Filed Return the Commissioner mailed to Hansen, among other things: (1) encouraged him to file a return to *replace* the CFR;² and (2) advised him of his right to appeal the CFR to this court “within 60 days of the Notice Date of the CFR.”³

Having filed CFRs for four tax years, the Commissioner followed up by mailing Mr. Hansen numerous demands for payment between March 18, 2020, and October 10, 2023.⁴ On February 22,

¹ Return (filed May 20, 2024), Exs. 5-8 (Notices of Commissioner Filed Return).

² *See, e.g.*, Return, Ex. 5, at 1 (“This CFR does not satisfy your obligation to file a return.”); *id.* at 5 (stating that “when you file your return, we must accept it to replace the CFR,” but also noting that a filed return is subject to audit).

³ *See, e.g.*, Return, Ex. 5, at 2, 6.

⁴ Decl. Yeng Callahan (signed July 17, 2024), Exs. F-L.

2024, the Commissioner sent Hansen a notice indicating that “[t]he Minnesota Department of Revenue levied your bank account.”⁵ About a month later, on March 19, 2024, Hansen filed a Notice of Appeal in this court asserting that the “CFRs were incorrect” and attaching the February 2024 bank levy notice.⁶

On July 17, 2024, the Commissioner filed a motion to dismiss⁷ arguing that the court lacks subject matter jurisdiction because: (1) Mr. Hansen’s Notice of Appeal does not timely challenge any of the CFRs;⁸ and (2) the February 2024 bank levy notice is not itself an appealable order.⁹ On July 19, 2024, Hansen filed a brief written response composed entirely of pseudolegal incantations.¹⁰

GOVERNING LAW

The tax court has jurisdiction over “all questions of law and fact arising under the tax laws of the state.” Minn. Stat. § 271.01, subd. 5 (2022). As relevant here, we are empowered “to review and redetermine orders or decisions of the commissioner of revenue upon appeal therefrom.” Minn. Stat. § 271.05 (2022). Not all writings of the Commissioner constitute official orders, however.

“All orders and decisions of the commissioner … respecting any tax, assessment, or other obligation, must be in writing and entered into the records of the commissioner.” Minn. Stat.

⁵ Return, Ex. 3, at 1.

⁶ Not. Appeal (filed Mar. 19, 2024).

⁷ Commissioner’s Not. Mot. & Mot. Dismiss (filed July 17, 2024).

⁸ Commissioner’s Mem. Supp. Mot. Dismiss (filed July 17, 2024), at 4-5.

⁹ Commissioner’s Mem. Supp. Mot. Dismiss 5-6.

¹⁰ E-mail from Vincent Hansen to MN_MNTAXCT Info MN Tax & Christopher Stafford (July 19, 2024, 8:31:21 PM). Mr. Hansen asserts, for example, that “[t]his motion is hereby declined in the interest of the people” and that “[a]dhesion contracts must be disclosed, as well as any tacit (tae-sit) agreements imposed on the people.” *Id. Cf. Dioh v. Haller*, No. 23-CV-3714 (PJS/LIB), 2023 WL 8877979, at *2 (D. Minn. Dec. 22, 2023) (commenting that the plaintiff “elected to garb his complaint with pseudolegal jargon”).

§ 270C.33, subd. 1 (2022). An order must be accompanied by a written notice that “explains the basis for the assessment” and “describes the taxpayer’s appeal rights.” *Id.*, subd. 2(a)(1) & (3). A taxpayer may appeal to the tax court “from any official order of the commissioner of revenue respecting any tax, fee, or assessment” Minn. Stat. § 271.06, subd. 1 (2022). Such an appeal must be filed and served “within 60 days after notice of the making and filing of an order of the commissioner.” Minn. Stat. § 271.06, subd. 2 (2022). Failure to timely appeal an order of the commissioner defeats the statutory right to appeal, and thus deprives the tax court of subject matter jurisdiction. *Piney Ridge Lodge, Inc. v. Comm’r of Revenue*, 718 N.W.2d 861, 862-63 (Minn. 2006).

Courts have distinguished appealable orders from other agency writings transmitted to taxpayers. Correspondence preceding the issuance of an order, for example, generally is not appealable. *See, e.g., F & G Beauty Supply v. Comm’r of Revenue*, No. 8931-R, 2016 WL 6583849, at *2-3 (Minn. T.C. Oct. 26, 2016). “[A]n agency statement that does not have ‘legal force or practical effect’ on the taxpayer’s ‘daily business’ is ‘not a definitive ruling or regulation’ that can be considered a ‘final agency action.’” *Schober v. Comm’r of Revenue*, 853 N.W.2d 102, 108 (Minn. 2013) (quoting *Fed. Trade Comm’n v. Standard Oil Co. of Cal.*, 449 U.S. 232, 243 (1980)). Agency action becomes final, and hence appealable, “when nothing is still pending before the agency.” *Id.* (internal quotation marks and citation omitted).¹¹

Likewise, correspondence following the issuance of an order is not appealable: “Subsequent administrative actions by the Commissioner, such as correspondence, telephone calls and meetings with the taxpayer, neither constitute appealable orders nor operate to extend the time limitations for

¹¹ Correspondence not styled as an official order, but that nevertheless constitutes a final determination by the Commissioner, may be appealable. *See, e.g., Schober*, 853 N.W.2d at 109 (noting that “[t]he Commissioner is not required to issue a formal order in refund cases,” and holding that “[t]he Commissioner’s letter of denial issued at the conclusion of the Commissioner’s consideration of Schober’s refund claim ... is a final decision on the claim that may be appealed to the tax court”).

“filing an appeal.” *Wierschke v. Comm’r of Revenue*, No. 4600, 1986 WL 9379, at *1 (Minn. T.C. Oct. 9, 1986). *See also Piney Ridge Lodge*, 718 N.W.2d at 863 (“The December 2004 document [titled Final Notice and Demand for Payment] was not an order from the department that is subject to appeal. By its terms, it is merely a document informing Piney Ridge that the department is about to commence a collection action to recover the assessment the commissioner previously determined to be due.”); *Skog v. Comm’r of Revenue*, No. 8953, 2017 WL 1377760, at *2 (Minn. T.C. Apr. 7, 2017) (ruling that a summary of liabilities contained in collection correspondence was not an appealable official order); *Broughton v. Comm’r of Revenue*, No. 8923-R, 2016 WL 6971422, at *2 (Minn. T.C. Nov. 22, 2016) (similar).

ANALYSIS

We grant the Commissioner’s motion to dismiss for lack of subject matter jurisdiction. First, the Collection Division’s February 22, 2024 Notice indicating that “[t]he Minnesota Department of Revenue levied your bank account”¹² is not an appealable order we have jurisdiction to review. Instead, that correspondence was an administrative measure to collect liabilities arising from previously issued tax orders (CFRs) that had become final. *See, e.g., Piney Ridge Lodge*, 718 N.W.2d at 863; *Harlow v. Comm’r of Revenue*, No. 5780, 1991 WL 10087, at *2 (Minn. T.C. Jan. 9, 1991) (holding that a notice of amount due is not an appealable order); *Petroske v. Comm’r of Revenue*, No. 5004, 1988 WL 7552, at *1-2 (Minn. T.C. Sept. 28, 1988) (holding that a Notice and Demand for Payment is not an appealable order, but is instead an “administrative action[] to collect a tax”); *Wierschke*, 1986 WL 9379, at *1 (holding that items of post-order correspondence “related to appellant’s compromise proposals” did not “constitute appealable orders”).

¹² Return, Ex. 3, at 1.

Second, Mr. Hansen’s March 19, 2024 Notice of Appeal is not a timely challenge to the four CFRs underlying the Department’s bank levy. Those CFRs were issued, respectively, on December 31, 2019 (Tax Year 2016), November 17, 2020 (Tax Year 2017), January 25, 2022 (Tax Year 2018), and July 21, 2023 (Tax Year 2019).¹³ The 60-day statutory time limit for appealing the last of these orders expired in late September 2023, months before Hansen filed his Notice of Appeal in March 2024. As the supreme court has explained, “the limitation provisions in a statutorily created cause of action are jurisdictional, requiring dismissal for failure to comply—they do not have flexible parameters permitting them to be ignored if their application is ‘too technical.’ ” *Ortiz v. Gavenda*, 590 N.W.2d 119, 122 (Minn. 1999).

Because the Commissioner’s bank levy notice is not an appealable order, and because Mr. Hansen’s Notice of Appeal is untimely as to the CFRs underlying the Commissioner’s collection efforts, we grant the Commissioner’s motion to dismiss for lack of subject matter jurisdiction.

B.S.D.

¹³ Return, Exs. 5-8.