

STATE OF MINNESOTA

TAX COURT

COUNTY OF OLMSTED

REGULAR DIVISION

Chrissie-Jo Wildeman,
Appellant,
vs.
Commissioner of Revenue,
Appellee.

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

Docket No: 9705-R

This matter came before the Honorable Jane N. Bowman, Chief Judge of the Minnesota Tax Court, on appellee Commissioner of Revenue's motion to dismiss.

Appellant Chrissie-Jo Wildeman is self-represented.

Joseph Weiner, Assistant Minnesota Attorney General, represents appellee Commissioner of Revenue.

Appellant Chrissie-Jo Wildeman seeks to appeal a December 12, 2024 Demand for Payment from the Commissioner of Revenue. We grant the Commissioner's motion to dismiss for lack of subject matter jurisdiction because the Commissioner's Demand for Payment is not an appealable order.

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:

Jane N. Bowman, Chief Judge
MINNESOTA TAX COURT

Dated: April 7, 2025

MEMORANDUM

I. FACTUAL AND PROCEDURAL BACKGROUND

With this motion, the Commissioner asks us to dismiss this income tax dispute for lack of subject matter jurisdiction. Appellant Chrissie-Jo Wildeman failed to file a Minnesota individual income tax return for tax year 2021. After an exchange with the Department of Revenue, Ms. Wildeman still did not file a return so the Commissioner filed a Commissioner Filed Return (CFR) on Ms. Wildeman's behalf.¹ *See* Minn. Stat. § 270C.33, subd. 3 (2024) ("If a taxpayer fails to file a return, the commissioner ... may make and file a return for the taxpayer...."). The Notice of CFR mailed to Ms. Wildeman on September 27, 2024 encouraged her to file a return to *replace* the CFR²

¹ Declaration of Joseph Weiner (signed Feb. 25, 2025) ("Weiner Decl.") ¶ 4, Ex. 3, at 1-2.

² Weiner Decl. ¶ 4, Ex. 3, at 1 ("This CFR does not satisfy your obligation to file a return."); *Id.*, Ex. 3, at 4 ("Must I still file a return? Yes. The CFR does not meet your requirement to file for the tax period.")

and advised of her right to appeal the CFR to this court “within 60 days of the Notice Date of the CFR.”³

After receiving no response, the Collections Department mailed Ms. Wildeman a Demand for Payment for tax liabilities on December 12, 2024.⁴ On January 15, 2025, Ms. Wildeman filed a Notice of Appeal, challenging the December 12, 2024 Demand for Payment, raising a variety of claims as the basis for her appeal; namely that she is not liable for any tax.⁵

On February 25, 2025, the Commissioner filed a motion to dismiss⁶ arguing that the court lacks subject matter jurisdiction because: (1) Ms. Wildeman was appealing a Demand for Payment, which is not an appealable order;⁷ and (2) even if Ms. Wildeman intended to appeal the Commissioner’s determination on the CFR, the appeal was untimely.⁸ Although Ms. Wildeman sent the tax court a written response, it was initially rejected as it included personal identifiers.⁹ At the March 26, 2025 remote hearing on the motion, the court allowed more time for Ms. Wildeman to file a redacted response, which she did the following day.¹⁰

II. 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 (2024). As relevant here, we are empowered “to review

³ Weiner Decl. ¶ 4, Ex. 3, at 2. (“You have the right to appeal to Minnesota Tax Court.”); *Id.* at Ex. 3, at 5 (“You must file your appeal with the Minnesota Tax Court within 60 days of the Notice Date of the CFR.”).

⁴ Weiner Decl. Ex. 4, at 1.

⁵ Not. of Appeal (filed Jan. 15, 2025).

⁶ Comm’r’s Not. Mot. & Mot. Dismiss (filed Feb. 25, 2025); Mem. Supp. Mot. Dismiss (filed Feb. 25, 2025).

⁷ Comm’r’s Mem. Supp. Mot. Dismiss 3.

⁸ Comm’r’s Mem. Supp. Mot. Dismiss 4.

⁹ Not. of Deficiency (filed Mar. 14, 2025).

¹⁰ Appellant’s Resp. to Mot. (filed Mar. 27, 2025).

and redetermine orders or decisions of the commissioner of revenue upon appeal therefrom.” Minn. Stat. § 271.05 (2024).

Statute outlines the way the Commissioner can evaluate and assess additional tax via orders and decisions. “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. § 270C.33, subd. 1. The Commissioner is specifically authorized to assess tax if “no return has been filed and the commissioner determines the amount of tax that should have been assessed.” *Id.* at subd. 4(a)(2).

An order must be accompanied by a written notice that “describes the taxpayer’s appeal rights” and that “explains the basis for the assessment.” *Id.* at subds. 2(a)(1) & (3). These “official order[s] of the commissioner of revenue respecting any tax, fee, or assessment” are appealable for taxpayers. Minn. Stat. § 271.06, subd. 1 (2024). Taxpayers must file and serve their appeal “within 60 days after the notice date of an order of the commissioner of revenue.” *Id.* at subd. 2. 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. *Id.*; *Piney Ridge Lodge, Inc. v. Comm’r of Revenue*, 718 N.W.2d 861, 862-63 (Minn. 2006).

This court distinguishes orders of the commissioner from other, non-appealable correspondence. Exchanges between the taxpayer and the agency preceding the issuance of an order are generally 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). Correspondence following the issuance of an order is also 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 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).

III. ANALYSIS

We grant the Commissioner’s motion to dismiss for lack of subject matter jurisdiction. The Collection Division’s December 12, 2024 notice indicating that “[t]he Minnesota Department of Revenue shows you owe this debt”¹¹ is not an appealable order we have jurisdiction to review. The Demand for Payment correspondence was an administrative measure to collect tax arising from a previously issued tax order (CFR) 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 *3 (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 Notice and Demand for Payment letters are not appealable orders, but are instead “administrative actions to collect a tax”); *Wierschke*, 1986 WL 9379, at *1 (holding that items of post-order correspondence “related to

¹¹ Weiner Decl., ¶ 5, Ex. 4.

appellant’s compromise proposals” did not “constitute appealable orders”).¹² Because the Commissioner’s Demand for Payment is not an appealable order, we grant the Commissioner’s motion to dismiss for lack of subject matter jurisdiction.

J.N.B.H.

¹² Additionally, Ms. Wildeman’s January 15, 2025 Notice of Appeal is not a timely challenge to the CFR that resulted in the tax liability named in the Demand for Payment. The CFR was issued on September 27, 2024 (Tax Year 2021). Weiner Decl., ¶ 4, Ex. 3. The 60-day statutory time limit for appealing that order expired in late November, more than a month before Ms. Wildeman filed her Notice of Appeal. As the supreme court 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).