

**BEFORE THE TAX APPEAL BOARD
OF THE STATE OF DELAWARE**

LOUIS and HELEN FUHRMANN,)	
)	
Petitioner,)	
)	
v.)	Docket No. 1814
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

BEFORE: Todd C. Schiltz, Esq., Steven R. Director, Esq., Joan Winters, CPA,
Robert Slavin and M. Lynn Fuller

Louis and Helen Fuhrmann, *pro se*

Anthony J. Testa, Jr., Esq., Deputy Attorney General, for Respondent

DECISION AND ORDER

This is a case concerning personal income taxes for 2017. Respondent denied deductions claimed by Petitioners, and assessed Petitioners over \$8,400 in unpaid taxes, penalties and interest.

Respondent issued its notice of determination (“NOD”) on June 8, 2022. The NOD assessed over \$8,400 in unpaid taxes, penalties and interest, and informed Petitioners that if they wished to appeal the NOD, Petitioners had to file a written petition with the “Tax Appeal Board within sixty days of the date of this notice.” The first business day following the sixtieth day from June 8, 2022 is August 8,

2022. Petitioners mailed their written petition to the Tax Appeal Board on September 17, 2022, more than a month after the August 8 deadline.

On October 13, 2022, Respondent moved to dismiss the petition on the ground it was not filed timely and, as a result, the Tax Appeal Board lacks jurisdiction over the dispute. On November 9, 2022, the Tax Appeal Board set a schedule requiring Petitioners to respond to the motion to dismiss on or before December 28, 2022. Petitioners did not respond to the motion by that date.

On April 12, 2023, the secretary to the Tax Appeal Board informed Petitioners that they had missed their deadline, asked Petitioners to respond by May 12, 2023, and advised Petitioners that if Petitioners did not respond by May 12, 2023, “the Board will consider dismissing this Petition for failure to prosecute.”

“[A] party must actively pursue a claim from its onset through its conclusion.” *Breeding v. Hillandale Farms of Delaware, Inc.*, 2011 WL 378847, at *2 (Del. Super. Ct. Jan. 28, 2011). Superior Court Civil Rule 41(e) provides that if no action is taken in a case for six months, the Prothonotary shall mail notice to the parties stating that if no action is taken within 30 days, the matter will be dismissed for want of prosecution.

Here, the motion to dismiss has been pending for more than seven months. Petitioners have not filed responsive papers notwithstanding efforts to obtain those

papers. Under these circumstances, the Board believes that the case should be dismissed for want of prosecution.

For the reasons stated above, the Board dismisses Petitioners' petition for failure to prosecute. Judgment is entered for Respondent.

Paul C. Self

John M. Winters

M. Lynn Fuller

Robert W. Slavin

Robert W. Slavin

SO ORDERED this 1st day of June, 2023.