

decision on the pleadings pursuant to 1 CSR 15-446(4), which we may grant “if a party’s pleading, taken as true, entitles another party to a favorable decision.” We base our findings of fact on the Petitioners’ complaint.

Findings of Fact

1. On or about December 13, 2013, the Director issued a letter to Petitioners to inform them that “the Department is issuing estimated audit assessments as a result of failing to maintain or provide adequate business records to conduct a sales, use, and withholding tax audit of D & F Holdings Inc.”²

2. The letter also states, “The total additional tax liability is \$3,670.89, which includes interest and additions to tax in the amount of \$665.59. The assessment notices will be delivered by certified mail.”

3. Petitioners filed their “petition for review of tax assessment” on February 11, 2014.

Conclusions of Law

Within sixty days after the date on which a sales tax assessment is mailed or delivered to a taxpayer, the taxpayer may file an appeal of such assessment, or may request an informal review of the assessment by the Director. § 144.240.2.³ Section 621.050.1 gives us jurisdiction over an appeal of “any finding, order, decision, assessment or additional assessment made by the director of revenue.”

Our jurisdiction comes from the statutes alone, and is bounded by those statutes. *State Bd. of Regis’n for the Healing Arts v. Masters*, 512 S.W.2d 150, 161 (Mo. App., K.C.D. 1974). The Director’s December 13, 2013 letter provides notice to the Petitioners that the Director intends to issue assessment notices, but it is not “an assessment or additional assessment.” It is

² The Director’s letter is an attachment to Petitioners’ complaint, and we consider it a part thereof.

³ Statutory references, unless otherwise noted, are to RSMo 2000.

also not a “finding, order, [or] decision.” Therefore, we conclude we lack jurisdiction over Petitioners’ appeal.

If we have no jurisdiction to hear the complaint, we cannot reach the merits of the case and can only exercise our inherent power to dismiss. *Oberreiter v. Fullbright Trucking*, 24 S.W.3d 727, 729 (Mo. App., E.D. 2000). If the Director subsequently issues assessments or a final decision to Petitioners, however, they may appeal the final decision to this Commission at that time.

Summary

We grant the Director’s motion to dismiss the complaint because we lack jurisdiction to hear it at this time.

SO ORDERED on April 3, 2014.

\s\ Karen A. Winn

KAREN A. WINN

Commissioner