

FILED

SEP 29 2026

STATE OF WISCONSIN
TAX APPEALS COMMISSION

Wisconsin Tax Appeals Commission
Drew Fox - Clerk

ALAN NATHAN CARROLL, JR a/k/a
U'SI CH-AB,

DOCKET NO. 26-I-112

Petitioner,

v.

WISCONSIN DEPARTMENT OF REVENUE,

Respondent.

RULING AND ORDER

ELIZABETH KESSLER, CHAIR:

This matter appears before the Commission less than a year after the Commission's Decision and Order in *Alan Nathan Carroll, Jr., a/k/a U'si Ch-ab v. Wisconsin Department of Revenue*, Docket No. 24-I-209 in which the Commission found, after a two-part evidentiary hearing, that Petitioner was required to submit Wisconsin income tax returns based upon his gross income and Wisconsin residency, pursuant to Wis. Stat. § 71.03(2)(a). Petitioner filed an untimely motion for reconsideration before the Commission, which was denied. Petitioner appealed that decision to the Circuit Court in Winnebago County, where it was dismissed on July 8, 2026.¹ Petitioner has now appealed that to the Wisconsin Court of Appeals.² In both this matter and that one, Alan Nathan

¹ 2026CV00499, Winnebago County Circuit Court.

² 2026AP001862, Wisconsin Court of Appeals, District 2.

Carroll, Jr., a/k/a U'si Ch-ab ("Ch-ab") appeared on his own behalf, and the Wisconsin Department of Revenue ("Department") was represented by Attorney Heather Morrissey.

The issues for determination in this matter appear from the pleadings to be substantively identical to those decided last March, except that this matter applies to the 2023 tax year.

FACTS

1. Petitioner works for Oshkosh Defense, LLC, and resides in Oshkosh, Wisconsin. For the tax year ending December 31, 2023, Petitioner's gross earnings from Oshkosh Defense, LLC, for 2023 were \$58,262.00. (Hans Affidavit, ¶ 3a.; Ex. A to Hans Affidavit.)

2. For the tax year ending December 31, 2023, Petitioner did not file a Wisconsin Income Tax Return. (Hans Affidavit, ¶ 2.)

3. On November 6, 2025, the Department sent a Notice of Estimated Tax Amount Due – Individual Income Tax to Petitioner with respect to the tax year ending December 31, 2023. The Notice stated Petitioner was required to file a Wisconsin income tax return for the year ending December 31, 2023. (Hans Affidavit ¶ 4; Exhibit B to Hans Affidavit.)

4. On January 2, 2026, Petitioner filed a Petition for Redetermination with the Department. (Hans Affidavit ¶ 5; Exhibit C to Hans Affidavit.)

5. On May 28, 2026, the Department sent Petitioner a Notice of Action which denied his Petition for Redetermination. (Hans Affidavit ¶ 6; Exhibit D to Hans Affidavit.)

6. On July 23, 2026, Petitioner filed a Petition for Review with the Wisconsin Tax Appeals Commission. (Commission file.)

PROCEDURAL HISTORY

As is this Commission's standard practice with unrepresented parties, we accepted U'si Ch-ab's initial mailing to us in this matter, received on July 23, 2026, as a new Petition. This document was captioned "Motion to Dismiss for Lack of Subject Matter Jurisdiction and Constitutional Authority." While much of the 151-page document consisted of complaints about his previous case, and this Commissioner in particular, it also included a timely appeal of the Department's May 28, 2026, Notice of Action and estimated tax due for the 2023 tax year.

The Department filed an answer, including a motion to dismiss for failure to state a claim upon which relief can be granted, on August 19, 2026. Also on August 19, 2026, Ch-Ab filed a 16-page document³ explaining his intent to file exhibits labeled A-Z and AA-ZZ in this matter, with unique explanations as to which exhibits would be provided to the Commission and which would be provided to the Department.

On August 24, 2026, the Commission issued an Initial Scheduling Notice for this matter, setting a first telephone status conference in this matter for October 13,

³ Petitioner included a thumb drive in the envelope with the document received on August 19, 2026. The Tax Appeals Commission's official records are on paper only. Any materials on that thumb drive are not part of the official record of this proceeding.

2026, with Commissioner Kessler. It is our standard practice to assign repeat petitioners to the Commissioner who has previously heard their cases whenever possible. In this case, however, Commissioner Adler resigned from the Commission in June 2026. As the Chair, assignment of cases is Commissioner Kessler's responsibility. While both remaining Commissioners' schedules remained exceptionally busy, Commissioner Kessler judged that hers could better accommodate this case and assigned it to herself.⁴

On September 1, 2026, Ch-ab filed a 29-page document which he titled "Response to Respondent's Motion to Dismiss and Pre-emptive Objection to Summary Judgment."

On September 8, 2026, Ch-ab filed a Motion to Recuse Commissioner Kessler, in which he also objected to the scheduling of the October 13, 2026, telephone status conference, the Department's request for a clear and concise statement of facts, and the language of the Commission's standard Notice of Initial Telephone Status Conference and also renewed his "prior filed, unaddressed, Motion to Dismiss for Lack of Subject Matter Jurisdiction."⁵

To the full extent legally appropriate, these matters will be addressed herein.

ISSUE PRECLUSION

The doctrine of issue preclusion is "designed to limit the relitigation of issues that have actually been litigated in a previous action." *Lindas v Cady*, 183 Wis. 2d

⁴ On August 31, 2026, Governor Evers appointed a replacement for Commissioner Adler.

⁵ Ch-ab filing, dated September 8, 2026, p. 2.

547, 558 (1994). The Wisconsin Supreme Court previously explained that as “courts balance the competing goals of judicial efficiency and finality, protection against repetitious or harassing litigation, and the right to litigate one's claims ... [they] may consider some or all of the following factors to protect the rights of all parties to a full and fair adjudication of all issues involved.” *Michelle T. v Crozier*, 173 Wis. 2d 681, 688-689 (1993).

First, could the party against whom preclusion is sought have obtained judicial review of the judgment? In this case, yes. Ch-ab appealed the original Commission decision (Docket No. 24-I-209) to Winnebago County Circuit Court, where the appeal was dismissed with prejudice. That case is currently pending before the Wisconsin Court of Appeals.

Second, is the question one of law that involves two distinct claims or intervening contextual shifts in the law? In this case, the questions of law are exactly the same, and there has been no intervening contextual shift in the law.

Third, do significant differences in the quality or extensiveness of the proceedings between the two courts warrant relitigation of the issue? The original proceedings were quite extensive. Although there were no material facts in dispute, the original presiding Commissioner, acting on his own behalf, denied the Department's motion for summary judgment against the Petitioner. Instead, the Commission held numerous prehearing conferences and a multi-day, two-part evidentiary hearing. The petitioner was self-represented during the first proceeding and remains self-represented. There can be no possible claim that the original proceeding was insufficiently extensive.

The quality of both the Petitioner's and the Department's representation in both proceedings are the same.

Fourth, have the burdens of persuasion shifted? The burdens of persuasion have not shifted. The Department's assessments are presumed to be correct, and the burden is on the petitioner to prove that the Department is incorrect as a matter of law or a matter of fact. Ch-ab did not meet that burden previously and nothing about the circumstances has changed suggesting it would be possible for him to be able to meet that burden now. The pleadings make it clear that the underlying facts are the same, differing only in that this matter is for the 2023 tax year, while the earlier decision addressed the 2020 and 2022 tax years. Ch-ab continues to reside in Oshkosh, Wisconsin and to be employed by Oshkosh Defense LLC. Ch-ab was still required to submit Wisconsin income tax returns based upon his gross income and Wisconsin residency, pursuant to Wis. Stat. § 71.03(2)(a).

Fifth, are there matters of public policy and individual circumstances involved that would render the application of collateral estoppel⁶ to be fundamentally unfair; including an inadequate opportunity or incentive to obtain a full and fair adjudication in the initial action? In this case, no. There is no matter of public policy that would render issue preclusion fundamentally unfair. There are no individual circumstances involved that would render issue preclusion fundamentally unfair. Ch-ab fully participated in the evidentiary hearing before the Commission litigating this issue

⁶ The court in *Michelle T. v Crozier* discussed "collateral estoppel," for which the more modern phrase is "issue preclusion." When referring to the *Lindas* precedent, the Commission uses the language used in that decision. When the Commission discusses the concept, it uses the more modern terminology.

as applied to the 2020 and 2022 tax years, and he subsequently appealed the Commission's Decision and Order to the Circuit Court and Court of Appeals.

In the judgment of this Commission, in Docket 24-I-209, Ch-ab fully litigated the issues of whether or not the Department appropriately determined that he was required to submit Wisconsin income tax returns based upon his gross income and Wisconsin residency, pursuant to Wis. Stat. § 71.03(2)(a), and when he did not submit his Wisconsin income tax returns, the Department properly assessed an income tax liability pursuant to Wis. Stat. § 71.74(3) based upon the best information available.

The appeal Ch-ab has filed in Docket 26-I-112 having arisen under substantially similar facts and the same questions of law as their previous, fully litigated issue, leads this Commission to the conclusion that Ch-ab is, therefore, precluded from relitigating the same issue.

ADDITIONAL ANALYSIS

Because the issue preclusion question prevents the Commission from needing to relitigate any of the substantive questions, there would ordinarily be no additional analysis. However, the Motion to Recuse Commissioner Kessler is in a slightly different procedural position, so it is addressed below.

Ch-ab's claim that Commissioner Kessler is biased is untrue. Commissioner Kessler's concurrence in the decision and order written in for Docket No. 24-I-209 was legally sound and objective. The use of strong language was intentional, not because of bias, but as a matter of law. As I stated then:

When a Petitioner freely admits to all the material facts which would preclude success on the merits, the questions of law are well settled, and the Department moves for dismissal or summary judgment, the Commission should grant that motion.

...

The concurring Commissioners make this point, as federal courts considering meritless tax protester cases have, because it is our intention to send a message to this Petitioner and others who are considering filing frivolous and groundless petitions before the Commission: such petitions will be given precisely the time and attention necessary to be fairly decided, and no more.

Although the third Commissioner has been appointed since the initial assignment of this case, assignment of cases is a matter of the discretion of the Chair, who is Commissioner Kessler. As Commissioner Kessler is not biased against this petitioner or in this matter, there remains no reason to recuse herself and reassign this case.

CONCLUSIONS OF LAW

1. This appeal having arisen under nearly identical facts and the same questions of law as the Petitioner's previous fully litigated petition precludes him from relitigating the same issue before this Commission.

2. Petitioner was required to submit 2023 Wisconsin income tax returns based upon his gross income and Wisconsin residency, pursuant to Wis. Stat. § 71.03(2)(a).

3. The Department properly assessed an income tax liability pursuant to Wis. Stat. § 71.74(3) based upon the best information available to the Department.

ORDERS

1. Petitioner's Motion to Recuse Commissioner Kessler is denied.

2. Petitioner's request to cancel the telephone status conference previously scheduled for October 13, 2026, is granted.

3. Petitioner's request that he not be required to provide the Department with a clear and concise statement of facts is granted.

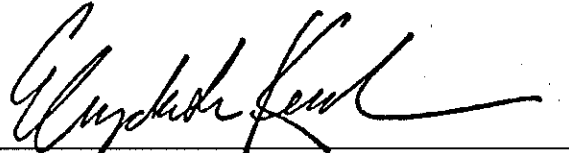
4. Petitioner's "Motion to Dismiss for Lack of Subject Matter Jurisdiction" is denied.

5. The Department's Motion to Dismiss the Petition for Review is granted.

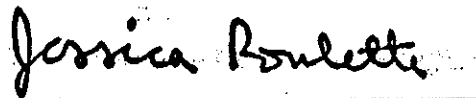
6. The Department's assessment of Petitioner's Wisconsin 2023 income tax is upheld.

Dated at Madison, Wisconsin, this 29th day of September, 2026.

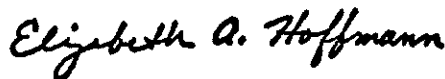
WISCONSIN TAX APPEALS COMMISSION



Elizabeth Kessler, Chair



Jessica Roulette, Commissioner



Elizabeth Hoffmann, Commissioner

ATTACHMENT: NOTICE OF APPEAL INFORMATION

WISCONSIN TAX APPEALS COMMISSION

101 E Wilson St, 5th Floor
Madison, Wisconsin 53703

NOTICE OF APPEAL INFORMATION

NOTICE OF RIGHTS FOR REHEARING, OR JUDICIAL REVIEW, THE TIMES
ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE PARTY TO BE
NAMED AS RESPONDENT

A taxpayer has two options after receiving a Commission final decision:

Option 1: PETITION FOR REHEARING BEFORE THE COMMISSION

The taxpayer has a right to petition for a rehearing of a final decision within 20 days of the service of this decision, as provided in Wis. Stat. § 227.49. The 20-day period commences the day after personal service on the taxpayer or on the date the Commission mailed its original decision to the taxpayer. The petition for rehearing should be filed with the Tax Appeals Commission and served upon the other party (which usually is the Department of Revenue). The Petition for Rehearing can be served either in-person, by USPS, or by courier; however, the filing must arrive at the Commission within the 20-day timeframe of the order to be accepted. Alternately, the taxpayer can appeal this decision directly to circuit court through the filing of a petition for judicial review. It is not necessary to petition for a rehearing first.

AND/OR

Option 2: PETITION FOR JUDICIAL REVIEW

Wis. Stat. § 227.53 provides for judicial review of a final decision. Several points about starting a case:

1. The petition must be filed in the appropriate county circuit court and served upon the Tax Appeal Commission and the other party (which usually is the Department of Revenue) either in-person, by certified mail, or by courier, within 30 days of this decision if there has been no petition for rehearing or, within 30 days of service of the order that decides a timely petition for rehearing.
2. If a party files a late petition for rehearing, the 30-day period for judicial review starts on the date the Commission issued its original decision to the taxpayer.
3. The 30-day period starts the day after personal service, or the day we mail the decision.
4. The petition for judicial review should name the other party (which is usually the Department of Revenue) as the Respondent, but not the Commission, which is not a party.

For more information about the other requirements for commencing an appeal to the circuit court, you may wish to contact the clerk of the appropriate circuit court or, the Wisconsin Statutes. The website for the courts is <https://wicourts.gov>.

This notice is part of the decision and incorporated therein.