

# Project Cover Sheet

File Name

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STATE OF WISCONSIN  
TAX APPEALS COMMISSION

STATE OF WISCONSIN  
DEPARTMENT OF REVENUE  
**RECEIVED**  
FEB 28 1984  
LEGAL DIVISION

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CARL L. BATTON,  
4828 Ridgeway Avenue,  
Racine, Wisconsin 53405,

Petitioner,

vs-

WISCONSIN DEPARTMENT OF REVENUE,  
PO Box 8933,  
Madison, Wisconsin 53708,

Respondent.

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\* DOCKET NO. I-10,197  
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\* RULING AND ORDER ON MOTION TO  
\* DISMISS FOR FAILURE TO FILE A PROPER  
\* PETITION FOR REVIEW  
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Pursuant to this Commission's notice of hearing and the respondent's notice of motion, the above-entitled matter came on to be heard before this Commission on February 21, 1984 in Room 214 of the State Office Building, 141 Northwest Barstow Street, Waukesha, Wisconsin.

The petitioner, Carl L. Batton, did not appear; the respondent, Wisconsin Department of Revenue, appeared by its Attorney, Robert M. Finley, who introduced exhibits and then moved that this matter be dismissed on the grounds that the petitioner failed to file a proper petition for review in accordance with Sections 71.12(1)(c) and 73.01(5)(b) of the Wisconsin Statutes and TA 1.15 of the Wisconsin Administrative Code within sixty days after receipt of the respondent's notice of denial of the petition for redetermination as required by Section 73.01(5)(a) of the Wisconsin Statutes, and therefore the State of Wisconsin Tax Appeals Commission lacks jurisdiction to review the alleged grievances of the petitioner.

Having considered the record herein and the respondent's motion, and oral argument presented by the respondent, this Commission hereby finds, decides, concludes, rules and orders as follows:

1. By notice from the Wisconsin Department of Revenue dated December 27, 1982, an assessment of income tax was made against the petitioner in the amount of \$9,578.81 including interest.

2. On February 26, 1983 the petitioner filed a petition for redetermination with the Wisconsin Department of Revenue.

3. By notice dated August 19, 1983, mailed to petitioner by certified mail, return receipt requested, and received by petitioner on September 6, 1983, the respondent denied the petitioner's petition for redetermination of the assessment.

4. The petitioner's filing fee and a copy of the respondent's notice of action dated August 19, 1983 denying the petitioner's petition for redetermination were received in the office of the Wisconsin Tax Appeals Commission on October 19, 1983, but these items were not accompanied by the proper petition for review as required by Sections 71.12(1)(c) and 73.01(5)(b) of the Wisconsin Statutes and TA 1.15 of the Wisconsin Administrative Code.

5. The sixty-day period provided for in Section 73.01(5)(a) of the Wisconsin Statutes for filing a proper petition for review of the action of the respondent on the petitioner's petition for redetermination expired on November 7, 1983.

6. Pursuant to Section 73.01(5)(a)(b) of the Wisconsin Statutes, the petition for review shall be in writing and shall set forth specifically the facts upon which the petitioner relies. The petitioner, Carl L. Batton, failed to file a proper petition for review.

7. The respondent, Wisconsin Department of Revenue, has shown good cause for granting its motion.

8. The petitioner having failed to file a proper petition for review with this Commission within the time provided in Section 73.01(5)(a) and in accordance with the provisions of Sections 71.12(1)(c) and 73.01(5)(b) of the Wisconsin Statutes, respondent's assessment is final and conclusive, and this Commission

lacks jurisdiction to hear the matters of which petitioner complains.


Therefore,

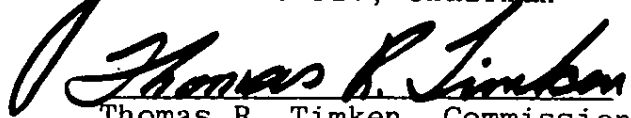
IT IS ORDERED


That the above-entitled matter be and the same is hereby dismissed.

Dated at Madison, Wisconsin, this 27th day of February, 1984.

WISCONSIN TAX APPEALS COMMISSION

  
John P. Morris, Chairman

  
Thomas R. Timken, Commissioner

  
Catherine M. Doyle, Commissioner

CC: Petitioner  
Respondent

Attachment: Notice of Appeal Information.