
BEAM R JAMES I11411 031086 TAC

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STATE OF WISCONSIN
TAX APPEALS COMMISSION

STATE OF WISCONSIN
DEPARTMENT OF REVENUE
RECEIVED
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LEGAL DIVISION

*
R. JAMES BEAM *
1573 Evergreen Lane *
Lake Geneva, WI 53147 *
*
Petitioner, *
*
vs. *
*
WISCONSIN DEPARTMENT OF REVENUE *
P.O. Box 8933 *
Madison, WI 53708 *
*
Respondent. *

DOCKET NO. I-11411

RULING AND ORDER

Pursuant to this Commission's notice, this Commission convened in Room 611A, GEF-2 Building, 101 S. Webster Street, Madison, Wisconsin, at 9:00 a.m., on March 6, 1986, for the purpose of hearing the above-entitled matter on its merits. At the hearing, the respondent made motion to dismiss the petition for review in this matter on the following grounds:

That the petitioner failed to meet the personal appearance requirements of s. 71.12(3), Wis. Stats., and ss. TA 1.03 and 1.51 (2), Wis. Adm. Code; therefore, this Commission lacks jurisdiction to hear the matters of which the petitioner complains in his petition for review.

In the alternative, the respondent moved that the Commission affirm its action on the petitioner's petition for redetermination based on the record presented.

The petitioner, R. James Beam, failed to appear either in person or by a representative. The respondent, Wisconsin

Department of Revenue, appeared by its attorney, Robert M. Finley.

The respondent introduced exhibits, made a motion to dismiss the petition for review on the grounds stated above, made a prima facie case on the merits of the matter, and offered oral arguments in support thereof.

Having considered the pleadings, the record, the motion, the prima facie case presented on the merits, and the arguments of the respondent, this Commission finds as

FINDINGS OF FACT

1. By notice dated December 17, 1984, the respondent issued an assessment of a penalty against the petitioner in the amount of \$178.84, based on the petitioner's failure to make estimated tax payments for the year 1983.

2. On April 19, 1985, the petitioner filed a timely petition for redetermination of the respondent's assessment.

3. By notice dated May 13, 1985, the respondent issued its notice of action to the petitioner, denying the petition for redetermination.

4. On June 13, 1985, the petitioner filed a timely appeal of the respondent's notice of action with this Commission.

5. This Commission has previously issued decisions in two appeals filed by the petitioner involving the identical issue herein, affirming the respondent's action in both instances.

(R. James Beam v. Wisconsin Department of Revenue, Docket No. I-8725, August 27, 1982; R. James Beam v. Wisconsin Department of Revenue, Docket No. I-9559, July 25, 1983.)

6. The respondent has established a "prima facie" case.

Assessments or adjustments made by the respondent are presumptively correct. The petitioner did not appear at the hearing held on this matter to rebut the presumptive correctness of the respondent's action on the petitioner's petition for redetermination.

7. Section 71.12(3), Wis. Stats., contains the following:

"No person against whom an assessment of income tax has been made shall be allowed in any action, either as plaintiff or defendant or in any other proceeding to question such assessment unless the requirements of sub(1) shall first have been complied with, and unless such person shall have made full disclosure under oath at the hearing before the tax appeals commission of any and all income received by him. The requirements of this subsection may be waived by the department of revenue."

8. The respondent has established a "prima facie" case which the petitioner has not rebutted.

9. The respondent has shown good cause and sufficient grounds for the granting of its motion to dismiss based on the petitioner's failure to appear and make full disclosure.

Therefore,

IT IS ORDERED

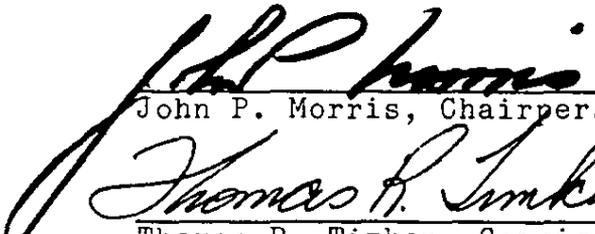
That the petition for review in the above-entitled matter be dismissed.

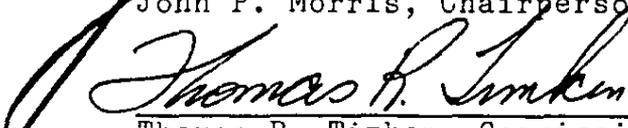
Dated at Madison, Wisconsin, this 10th day of March, 1986.

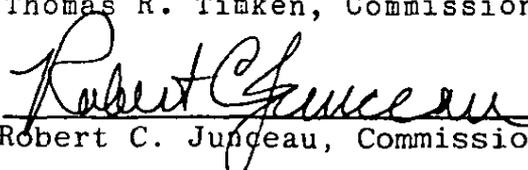
WISCONSIN TAX APPEALS COMMISSION

cc: Petitioner
Respondent

ATTACHMENT: "NOTICE OF
APPEAL INFORMATION"


John P. Morris, Chairperson


Thomas R. Timken, Commissioner


Robert C. Junceau, Commissioner