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STATE OF WISCONSIN TAX APPEALS COMMISSION

DEPARTMENT WISCONSIN DE GEO LEGAL DIVISION

THERESA CHAMBERS, 2577 North Oakland Avenue, 53211, Milwaukee, Wisconsin

Petitioner,

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

Respondent.

DOCKET NO. I-10,728

RULING AND ORDER ON

MOTION TO DISMISS PETITION FOR REVIEW

Pursuant to this Commission's notice, this Commission convened in Room 611A,

State Office Building, GEF-2, 101 South Webster Street, Madison, Wisconsin, on November 5, 1984 at 3:00 p.m., which hearing was adjourned and continued to December 7, 1984 at 11:00 a.m., for the purpose of hearing respondent's motion for an order for dismissing the petition for review for judgment on the pleadings, or, in the alternative, for summary judgment, in that:

- A. The petition for review fails to state a claim upon which relief can be granted by the Commission.
- There is no genuine issue as to any material fact and the respondent is entitled to an order affirming its assessment as a matter of law pursuant to Section 802.06(3) of the Wisconsin Statutes, or, in the alternative, pursuant to Section 802.08 of the Wisconsin Statutes.

Petitioner, Theresa Chambers, appeared in person; respondent appeared by its attorney, Donald J. Goldsworthy. Exhibits were received into the record and both parties then offered legal arguments on the motion.

Having considered the pleadings, the record, the respondent's motion and both parties' oral arguments, this Commission finds, rules and orders as follows:

- 1. By notice from the Wisconsin Department of Revenue dated September 19, 1983 an income tax assessment was made against the petitioner in the amount of \$1,911.75 for the years 1979, 1980, and 1981.
- 2. The petitioner filed a petition for redetermination with the Wisconsin Department of Revenue entitled "Administrative Law Demand under the First, Ninth, and Tenth Amendments."
- 3. By notice dated April 25, 1984, mailed to petitioner by certified mail, return receipt requested, and received by petitioner on April 28, 1984, the respondent denied the petitioner's petition for redetermination of the assessment.
- 4. The petitioner's "Special Appearance to Challenge Jurisdiction" was received in the offices of the Wisconsin Tax Appeals Commission on June 18, 1984, the filing fee of \$5.00 received on June 22, 1984, but these items were not accompanied by a 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. Petitioner's "Special Appearance to Challenge Jurisdiction" is on file herein.
- 5. Petitioner failed to present any evidence to overcome the presumption of correctness inherent in respondent's notice of denial.
- 6. The contentions made by petitioner in this matter has been consistently rejected by the courts of this state and are totally frivolous.
- 7. Respondent has shown good and sufficient cause for the granting of its motion for summary judgment in that there is no genuine issue as to any material fact, and the respondent is entitled to an order affirming its notice of action as a matter of law pursuant to section 802.06(3) of the Wisconsin Statutes, or in the alternative, pursuant to section 802.08 of the Wisconsin Statutes.
 - SEE: Daniel T. Betow v. Wisconsin Department of Revenue, Wisconsin Tax Appeals
 Commission, Docket NO. I-8737, CCH Wisconsin State Tax Reporter, New Matters
 (Part II), 1979-82, para. 202-032 (June 10, 1982), affirmed by the Rock
 County Circuit Court, Branch 5, C ase No. 82-CV-311 (January 14, 1983),

affirmed by Court of Appeals, Case No. 83-264 (Lunpublished, November 22, 1983).

Paul W. and Yvonne D. Christian v. Wisconsin Department of Revenue, Circuit Court for Marathon County, Branch IV, Case No. 82-CV-1208 (May 4, 1984).

Therefore,

IT IS ORDERED

That the respondent's motion for summary judgment is hereby granted.

Dated at Madison, Wisconsin, this 20th day of December, 1984.

WISCONSIN TAX APPEALS COMMISSION

John P. Morris, Chairman

Thomas R. Timken, Commissioner

Mary Wagner/Malloy, Commissioner

C: Petitioner Respondent

Attachment: Notice of Appeal Information.