

JOHNSON CONTROLS INC I12029 101086 TAC

STATE OF WISCONSIN

TAX APPEALS COMMISSION

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JOHNSON CONTROLS, INC.
5757 North Green Bay Avenue
P.O. Box 591
Milwaukee, Wisconsin 53201

Petitioner,

vs.

WISCONSIN DEPARTMENT OF REVENUE
P.O. Box 8933
Madison, Wisconsin 53708

Respondent.

* * * * *

DOCKET NO. I-12029

RULING AND ORDER

STATE OF WISCONSIN
DEPARTMENT OF REVENUE
RECEIVED
OCT 13 1986
LEGAL DIVISION

This matter came on for hearing by motion of the Department of Revenue for dismissal of the petition for review. The petitioner appeared by Barbara Christian, attorney; the respondent appeared by its attorney, John R. Evans. After consideration of the entire record before it, the Commission hereby makes the following:

FINDINGS OF FACT

1. That by notice from the Wisconsin Department of Revenue dated October 25, 1985, an assessment of franchise tax was made against the petitioner.

2. That the petitioner executed an agreement form on October 10, 1985, agreeing to the audit in full.

3. That on November 21, 1985, the petitioner paid the assessment in full, pursuant to its agreement with adjustment for the per diem interest.

4. That on December 20, 1985, the petitioner filed a claim for refund with the respondent.

5. On or about December 20, 1985, petitioner filed a petition with the Department of Revenue requesting a refund

of \$109,898. A notice of action was issued dated June 11, 1986 denying the petition.

6. The petitioner filed an appeal with the Commission on August 6, 1986.

WISCONSIN STATUTES INVOLVED

Section 71.12(1)(b), Stats.

Section 17.12(2), Stats.

CONCLUSIONS OF LAW

1. At the time of payment, the petitioner had no available procedure for making a deposit. Sec. 71.12(1)(b), Stats. only becomes available at the time a petition for redetermination is filed. Payment was made prior to that petition.

2. Petitioner paid the assessment prior to filing a petition for redetermination and therefore concluded the appeal process.

3. This Commission lacks jurisdiction in the matter before it.

AUTHORITY: Brown Deer Medical Building, Ltd. v. Wisconsin Department of Revenue, WTAC Docket No. I-11142 (Jan. 10, 1986)

Hunter Heating & Air Conditioning, Inc. v. Wisconsin Department of Revenue, WTAC Docket No. S-8486 (April 20, 1986)

Escanaba & Lake Superior Railroad v. Wisconsin Department of Revenue, WTAC Docket No. U-11875 (Sept. 4, 1986).

Therefore,

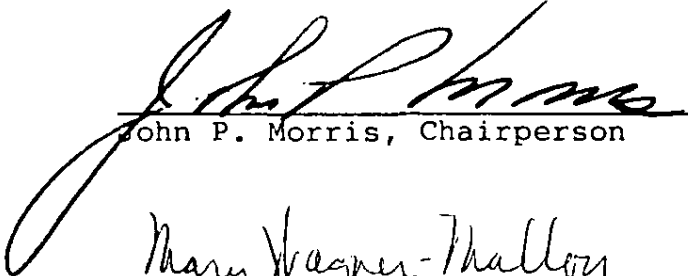
IT IS ORDERED

That the respondent's motion to dismiss for lack of jurisdiction is granted.

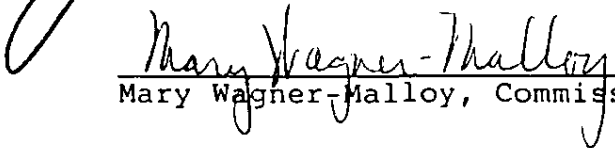
Dated at Madison, Wisconsin, this 10th day of October,

1986.

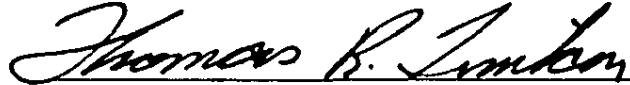
WISCONSIN TAX APPEALS COMMISSION



John P. Morris, Chairperson



Mary Wagner-Malloy, Commissioner



Thomas R. Timken, Commissioner

Attachment: "NOTICE OF APPEAL INFORMATION"