

MODERN EQUIPMENT COMPANY 111016 040285 TAC

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STATE OF WISCONSIN
TAX APPEALS COMMISSION

STATE OF WISCONSIN
DEPARTMENT OF REVENUE
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APR 3 1985
LEGAL DIVISION

MODERN EQUIPMENT COMPANY,
c/o Robert J. Evanick, Tax Manager,
Alco Industries, Inc.,
PO Box 937,
Valley Forge, Pennsylvania 19482,

Petitioner,

vs-

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

Respondent.

DOCKET NO. I-11,016

RULING AND ORDER ON MOTION
TO DISMISS PETITION FOR REVIEW

(Failure to Timely File
Petition for Redetermination)

Pursuant to this Commission's notice of hearing, this Commission convened in its Hearing Room, 611A, GEF 2 State Office Building, 101 South Webster Street, Madison, Wisconsin, at 2:30 p.m. on April 1, 1985, for the purpose of hearing the respondent's motion to dismiss the petition for review in this matter on the following grounds: For the reason that the petitioner did not file a petition for redetermination within the time provided in Section 71.12(1)(a), Wisconsin Statutes; and further, petitioner is not a "person who has filed a petition for redetermination" and "aggrieved by the redetermination" within the meaning of Section 73.01(5)(a), Wisconsin Statutes, and therefore the State of Wisconsin Tax Appeals Commission lacks jurisdiction to review the alleged grievances of the petitioner.

The petitioner, Modern Equipment Company, appeared by Robert J. Evanick, its Tax Manager; the respondent, Wisconsin Department of Revenue, appeared by its attorney, James L. Greenwald, who made motion to dismiss the petition for review on the grounds stated above. The petitioner objected to the granting of said motion. The parties offered arguments in support of and in opposition to

the motion.

Having considered the pleadings, the record, the motion and the arguments of the parties thereon, this Commission finds as

FINDINGS OF FACT

1. By notice from the Wisconsin Department of Revenue dated May 10, 1984, an assessment of franchise tax was made against the petitioner in the amount of \$114,490.35, including interest, which was received by the petitioner on May 14, 1984 by certified mail.

2. On August 6, 1984 the petitioner filed a petition for redetermination relative to such assessment with the Wisconsin Department of Revenue.

3. The sixty-day period provided petitioner in Section 71.12(1)(a), Wisconsin Statutes for filing a proper petition for redetermination with the respondent expired on July 13, 1984, and such assessment thereafter became final and conclusive under Section 71.12(1)(c) of the Wisconsin Statutes.

4. The respondent has shown good cause for the granting of its motion.

5. Under the provisions of Section 73.01(5)(a) of the Wisconsin Statutes, the petitioner failed to file a proper petition for redetermination within sixty days after receipt of the respondent's notice of assessment; therefore the Wisconsin Tax Appeals Commission lacks jurisdiction to review the alleged grievances of the petitioner.

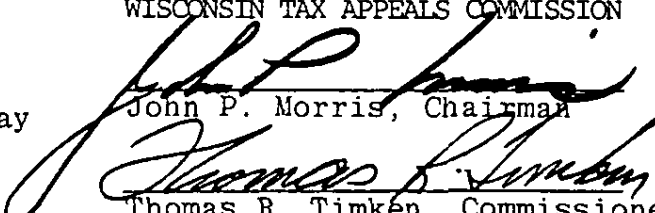
Therefore,

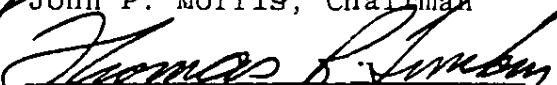
IT IS ORDERED

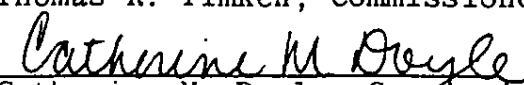
That the petition for review in the above-entitled matter be dismissed.

WISCONSIN TAX APPEALS COMMISSION

Dated at Madison,
Wisconsin, this 2nd day
of April, 1985.


John P. Morris, Chairman


Thomas R. Timken, Commissioner


Catherine M. Doyle, Commissioner

CC: Petitioner
Respondent

Attachment: Notice of Appeal Information.