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STATE OF WISCONSIN
TAX APPEALS COMMISSION

STATE OF WISCONSIN
DEPARTMENT OF REVENUE
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LEGAL DIVISION

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BETTY PLATZEK
Rt. 3, Kim Avenue
Fall Creek, Wisconsin 54742

Petitioner,

vs.

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

Respondent.

* * * * *

DOCKET NO. I-10,627

RULING AND ORDER

(Drafted by
Commissioner Timken)

The respondent in the above-entitled matter having entered its motion that this Commission issue an order dismissing the petitioner's petition for review on the grounds that the taxes involved in the additional assessment have been paid by the petitioner rather than deposited with the State Treasurer as provided by section 71.12(2) of the Wisconsin Statutes, and that the issues raised in the petition for review are therefore moot; and said motion having come on to be heard; the respondent, Wisconsin Department of Revenue, appearing by Veronica Folstad, its attorney, who presented the respondent's argument and evidence in support of said motion; the petitioner, Betty Platzeck, not appearing either in person or by representative; and this Commission having considered the record before it hereby finds, rules and decides as follows:

1. Under date of July 18, 1983 the respondent, Wisconsin Department of Revenue, issued a \$380.55 assessment of additional income taxes against the petitioner, Betty Platzeck, for the year

1979. Said assessment was based upon an alimony adjustment also made by the Internal Revenue Service to petitioner's 1979 federal income tax return.

2. On September 1, 1983 the petitioner filed a petition for redetermination of said assessment with the respondent.

3. On February 29, 1984 the respondent issued its notice denying the petitioners petition for redetermination.

4. On April 26, 1984 the petitioner, by her attorney, Russell R. Falkenberg, filed a timely appeal with this Commission protesting the respondents assessment.

5. The petitioner did not avail herself of the opportunity to deposit the amount in dispute with the Wisconsin State Treasurer per the terms of sec.71.12(2) of the Wisconsin Statutes.

6. On April 5, 1984 the petitioner paid in full to the respondent the assessment here under review.

7. It is futile for this Commission to hear the merits of the petitioner's petition for review in the above-entitled matter for the reason that the taxes at issue were paid by the petitioner and there is no statutory provision under which said taxes could be refunded to the petitioner if she were to prevail on the merits of her petition.

8. The provisions of sec.71.12(2) of the Wisconsin Statutes contain the exclusive procedure for the deposit of taxes in contested income tax assessments.

9. The petitioner's payment of the additional assessment of income taxes to the Wisconsin Department of Revenue did not constitute compliance in any manner with the provisions of sec. 71.12(2) of the Wisconsin Statutes.

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10. The respondent has shown good and sufficient grounds for the granting of its motion.

AUTHORITY: Model Laundering and Cleaning Corp. v. Wisconsin Department of Taxation 4 WBTA 444 (Jan. 8, 1959)

Therefore,

IT IS ORDERED

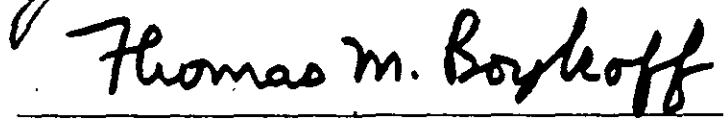
That the respondent's motion to dismiss the petition for review is hereby granted.

Dated at Madison, Wisconsin, this 4th day of September, 1984.


WISCONSIN TAX APPEALS COMMISSION



John P. Morris, Chairman



Thomas M. Boykoff, Commissioner



Thomas R. Timken, Commissioner

Attachment: "NOTICE OF APPEAL INFORMATION"

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