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STATE OF WISCONSIN
DEPARTMENT OF REVENUE
SEP 27 1991

STATE OF WISCONSIN
TAX APPEALS COMMISSION

RECEIVED
LEGAL DIVISION

GERALD S. ADUMAT	*	
2501 Rio Grande Drive	*	
Merrill, WI 54452	*	
	*	DOCKET NO. 91-I-247
Petitioner,	*	
vs.	*	RULING AND ORDER
	*	ON MOTION TO DISMISS
WISCONSIN DEPARTMENT OF REVENUE	*	
P.O. Box 8933	*	
Madison, WI 53708	*	PETITION FOR REVIEW
	*	(Late filing)
Respondent.	*	

Pursuant to its notice, this Commission convened in the Large Conference Room of the Marathon County Courthouse, 500 Forest Street, Wausau, Wisconsin, at 1:00 p.m., on September 18, 1991, for the purpose of hearing the respondent's motion to dismiss the petition for review in this matter on the following grounds:

That the petitioner failed to file a proper petition for review within 60 days after receipt of the respondent's notice of action on the petition for redetermination as required by sec. 73.01(5)(a), Stats., and therefore, the State of Wisconsin Tax Appeals Commission lacks jurisdiction to review the alleged grievances of the petitioner.

The petitioner, Gerald S. Adumat, failed to appear in person or by representative. The respondent, Wisconsin Department of Revenue, appeared by its attorney, Lili Best Crane.

The respondent made motion to dismiss the petition for review on the grounds stated above and offered oral argument in support of the motion.

Having considered the pleadings, the record, the motion and the argument of the respondent thereon, this Commission finds as

FINDINGS OF FACT

1. By notice dated September 17, 1990, the respondent made an assessment of estimated income tax against the petitioner in the amount of \$29,619.35.

2. Under date of October 26, 1991, the petitioner filed a petition for redetermination with the respondent.

3. By notice dated March 18, 1991, mailed to the petitioner by certified mail, return receipt requested, and received by petitioner on or before March 20, 1991, the respondent acted on the petitioner's petition for redetermination.

4. The petitioner's petition for review relating to the respondent's action on the petition for redetermination was received and filed in the office of the Wisconsin Tax Appeals Commission on May 21, 1991, by ordinary mail.

5. The 60-day period provided in s. 73.01(5)(a), Wis. Stats., for filing a proper petition for review with this Commission expired on May 20, 1991.

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

7. Under the provisions of s. 73.01(5)(a), Wis. Stats.,

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the petitioner failed to file a proper petition for review within 60 days after receipt of the respondent's notice of action on the petitioner's petition for redetermination; therefore, the Wisconsin Tax Appeals Commission lacks jurisdiction to review the alleged grievances of the petitioner.

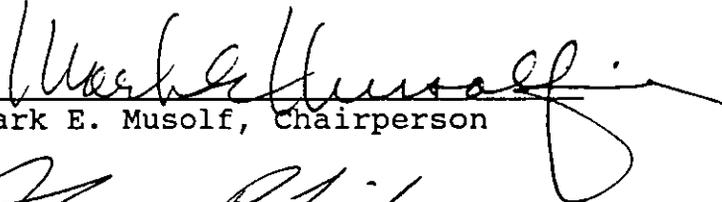
Therefore,

IT IS ORDERED

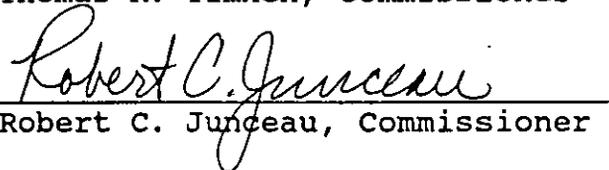
That the petition for review in the above-entitled matter be and the same is hereby dismissed.

Dated at Madison, Wisconsin, this 26th day of September, 1991.

WISCONSIN TAX APPEALS COMMISSION


Mark E. Musolf, Chairperson


Thomas R. Timken, Commissioner


Robert C. Junceau, Commissioner

pc: Petitioner
Respondent

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"

WISCONSIN TAX APPEALS COMMISSION

NOTICE OF APPEAL INFORMATION

NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW,
THE TIMES ALLOWED FOR EACH AND THE IDENTIFICATION
OF THE PARTY TO BE NAMED AS RESPONDENT

The following notice is served on you as part of the Commission's decision rendered:

Any party has a right to petition for a rehearing of this decision within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences the day after personal service or mailing of this decision. (Decisions of the Tax Appeals Commission are mailed the day they are dated. In the case of an oral decision, personal service is the oral pronouncement of the decision at the hearing.) The petition for rehearing should be filed with the Wisconsin Tax Appeals Commission. Nevertheless, an appeal can be taken directly to circuit court through a petition for judicial review. It is not necessary to petition for a rehearing.

Any party has a right to petition for a judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes. The petition should be filed in circuit court and served upon the Wisconsin Tax Appeals Commission within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of law of any petition for rehearing. (Decisions of the Tax Appeals Commission are mailed the day they are dated. In the case of an oral decision, personal service is the oral pronouncement of the decision at the hearing.) The petition for judicial review should name the Department of Revenue as respondent and must be served upon that department within 30 days of filing the petition for judicial review in circuit court.

This notice is part of the decision and incorporated therein.