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STATE OF WISCONSIN
TAX APPEALS COMMISSION

APR 1994
Dec.
LCS

JAMES DOOLAN
323 West Walker Street
Milwaukee, WI 53204-1750

Petitioner,

vs.

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

Respondent.

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DOCKET NO. 94-I-21
RULING AND ORDER
ON MOTION TO DISMISS
PETITION FOR REVIEW

APR 1994
State of Wisconsin
Department of Revenue
Received
Legal Staff

Pursuant to its notice, this Commission convened in Room 139 of the Department of Natural Resources Building, 2300 North Dr. Martin Luther King, Jr., Drive, Milwaukee, Wisconsin, at 9:00 a.m., on April 7, 1994, 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 § 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, James Doolan, appeared in person. The respondent, Wisconsin Department of Revenue, appeared by its

attorney, Michael J. Buchanan.

The respondent made motion to dismiss the petition for review on the grounds stated above. Petitioner objected to the granting of the motion. The parties offered oral argument 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 dated March 2, 1992, the respondent made an assessment of income tax against the petitioner in the amount of \$33,653.76, including interest.

2. On April 28, 1992, the petitioner filed a petition for redetermination with the respondent.

3. By notice dated October 25, 1993, mailed to the petitioner by certified mail, return receipt requested, the respondent acted on the petitioner's petition for redetermination. The respondent never received the return receipt card which was attached to the certified mail bearing its notice of action letter.

4. At the hearing on the respondent's motion, the petitioner stated that he did receive the respondent's notice of action letter by certified mail, return receipt requested, but was uncertain of the precise date.

5. It is presumed that the 60-day period provided in § 73.01(5)(a), Wis. Stats., for filing a proper petition for review with this commission expired on or about December 30, 1993.

6. 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 January 12, 1994.

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

8. Under the provisions of § 73.01(5)(a), Wis. Stats., 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.

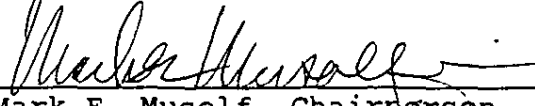
Therefore,

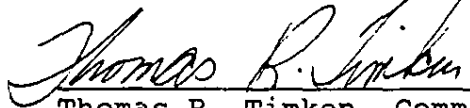
IT IS ORDERED

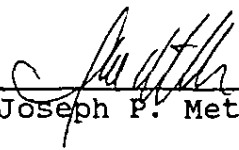
That the petition for review in the above-entitled matter be and the same is hereby dismissed.

Dated at Madison, Wisconsin, this 8th day of April, 1994.

WISCONSIN TAX APPEALS COMMISSION


Mark E. Musolf, Chairperson


Thomas R. Timken, Commissioner


Joseph P. Mettner, Commissioner

pc: Petitioner
Representative
Respondent

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"