

GRUENWALD CURTIS DEBORAH 911375 072193 TAC

Legal Library

JUL 22 1993

STATE OF WISCONSIN
TAX APPEALS COMMISSION

RECEIVED
LEGAL DIVISION

20106
A. Deborah
312

CURTIS H. GRUENWALD
DEBORAH A. GRUENWALD
W59 N432 Hilgen Avenue
Cedarburg, WI 53012

Petitioners,

vs.

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

Respondent.

*
*
* DOCKET NO. 91-I-375
*
*
* RULING AND ORDER
*
*
*
*
*
*
*
*
*
*

On July 17, 1992, the respondent, Wisconsin Department of Revenue, by its attorney, Sheree Robertson, filed with this commission a Notice of Motion to Dismiss the petitioners' petition for review pursuant to §804.12(2)(a)3, Wis. Stats., for the alleged reason that petitioners failed to comply with the Commission's order dated June 11, 1992 which ordered petitioners to answer respondent's first set of interrogatories by June 25, 1992.

After considering the entire record before us, this commission hereby finds, rules, and decides as follows:

1. On September 13, 1991, the petitioners, Curtis H. Gruenwald and Deborah A. Gruenwald, by their attorney, Karl J.M. Grunewald, filed with this commission a petition for review of an assessment of additional income taxes made against them by the respondent, Wisconsin Department of Revenue. Said assessment was in the amount of \$3,791.71 and covered the calendar years 1986 through 1988, inclusive.

2. On January 13, 1992, after a telephone scheduling conference held on December 19, 1991, a Scheduling Order was issued by this commission setting a discovery deadline/completion date of April 30, 1992.

3. On May 20, 1992, the respondent filed with this commission a Notice of Motion to Compel Discovery. Attached to that Notice of Motion was an affidavit which alleged the following facts, which have not been controverted or otherwise impeached:

A. That by letter of February 4, 1992, respondent issued its first set of interrogatories in the above docket.

B. That the first set of interrogatories was mailed to petitioners' representative, J.M. Grunewald, by certified mail and was received on February 5, 1992.

C. That petitioners' responses to respondent's first set of interrogatories were due on March 5, 1992, but no responses have been received.

D. That a letter dated March 11, 1992 was sent to petitioners' representative and, in the letter, it was requested that respondent's first set of interrogatories be answered by March 16, 1992.

E. That petitioners have failed to respond to respondent's first set of interrogatories (May 20, 1992).

F. That the respondent is prejudiced by petitioners' failure to respond to its first set of interrogatories.

4. On June 11, 1992, the respondent's Motion to Compel Discovery was granted by this commission, and it was further ordered that answers shall be furnished to the respondent no later than June 25, 1992.

5. Attached to the respondent's Motion to Dismiss was an affidavit which alleged the following facts, which have not been controverted or otherwise impeached:

A. That the Wisconsin Tax Appeals Commission's order dated June 11, 1992, which was issued to petitioners, ordered the petitioners to respond to respondent's first set of interrogatories.

B. That the respondent's first set of interrogatories were received by petitioners' attorney, Karl J.M. Grunewald, on February 5, 1992.

C. That petitioners failed to respond to respondent's first set of interrogatories by June 25, 1992, as ordered by the Wisconsin Tax Appeals Commission.

6. The Wisconsin Tax Appeals Commission has received no additional communications from either the petitioners or their representative.

7. That the respondent has shown good and sufficient grounds for the granting of its motion.

Now, therefore,

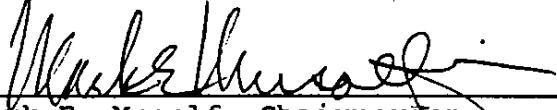
IT IS HEREBY ORDERED

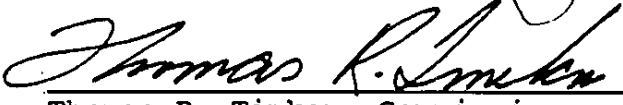
That pursuant to the provisions of §804.12(2)(a)3 of the Wisconsin Statutes, the respondent's motion to dismiss the

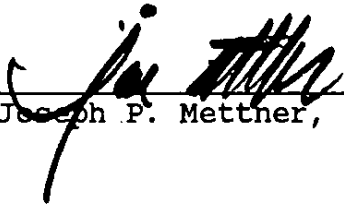
petitioners' petition for review is hereby granted and its action on the petitioners' petition for redetermination is affirmed.

Dated at Madison, Wisconsin, this 21st day of July, 1993.

WISCONSIN TAX APPEALS COMMISSION


Mark E. Musolf, Chairperson


Thomas R. Timken, Commissioner


Joseph P. Mettner, Commissioner

ATTACHMENT:
"Notice of Appeal Information"

201006081203312