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Project Cover Sheet

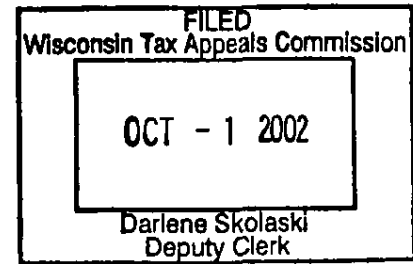
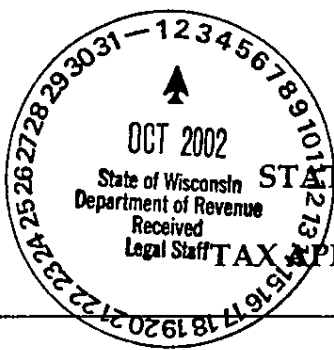
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Cover Sheet



EARL DIEHL
413 Adams Street
Portage, WI 53901,

DOCKET NOS. 01-I-153,
01-I-154, AND 01-I-155

Petitioner,

vs.

RULING AND ORDER

WISCONSIN DEPARTMENT OF REVENUE
P.O. Box 8907
Madison, WI 53708-8907,

Respondent.

DON M. MILLIS, COMMISSION CHAIRPERSON:

These matters come before the Commission on respondent's motion to dismiss the petitions for review based on petitioner's failure to prosecute his appeals pursuant to section 805.03 of the Statutes. Respondent filed an affidavit and brief in support of its motion. Petitioner did not submit a brief or otherwise respond or object to respondent's motion. Petitioner represents himself. Respondent is represented by Attorney Neal E. Schmidt.

Based on the submission of respondent and the record in these matters, the Commission finds, rules, and orders as follows:

RULING

Under the date of December 11, 2000, respondent issued three income tax assessments against petitioner. Each assessment was an estimate of petitioner's income

tax liability, since petitioner did not file income tax returns for any of the years at issue.

The assessments and the years at issue are:

<u>Years at Issue</u>	<u>Total Assessment</u>
1990 through 1993	\$ 23,412.80
1994 and 1995	9,418.24
1996 through 1999	16,654.63

Petitioner filed timely petitions for redetermination with respondent, which were denied by respondent. On October 5, 2001, petitioner then filed a one-sentence petition for review with the Commission objecting to respondent's action on each petition for redetermination. The petition for review consisted of the following statement: "I, Earl Diehl, appeal/disagree with computer estimation of owed taxes."

On October 8, 2001, the Commission sent an acknowledgment to petitioner. The acknowledgment provided the following direction in bold, all caps type:

IF YOU HAVE NOT DONE SO, PLEASE PROVIDE US WITH AN ORIGINAL AND ONE COPY OF A CLEAR AND CONCISE STATEMENT OF THE FACTS OF YOUR CASE AND YOUR SPECIFIC OBJECTIONS TO THE DEPARTMENT OF REVENUE'S ACTION, INCLUDING POINTS OF LAW UPON WHICH YOU RELY, IF YOU KNOW.

Petitioner never provided such a statement.

At the initial status conference in these matters held on November 28, 2001, petitioner asserted that the estimated assessments against him were incorrect because he was incarcerated during much of the 1990s. The Commission ordered petitioner to provide to respondent a copy of his "Individual History Report" which petitioner claimed would show the dates of his incarceration.

Petitioner failed to appear via telephone at the second status conference in these matters held on January 22, 2002. Because of petitioner's failure to appear at that status conference, the Commission issued a Memorandum and Order on January 24, 2002, ordering that petitioner be available for the next telephone conference, set for February 19, 2002, and that his non-cooperation may result in a motion to dismiss for failure to prosecute.

Petitioner initially participated in the third status conference on February 19, 2002. During this conference, petitioner was not able to answer questions from respondent and the Commission concerning the Individual History Report that he had previously provided to respondent and the Commission. Petitioner also said he was incarcerated in Georgia during the 1990s, but was unable to provide details of such incarceration. After 50 minutes, but before the status conference was finished, petitioner became angry and hung up.

On February 20, 2002, the Commission issued an order directing petitioner, no later than March 12, 2002, to serve on respondent a document (handwritten, if necessary) describing the periods he was incarcerated in any state or federal facility and referencing information from the Individual History Report and any other documentary evidence. The Order of February 20, 2002 also provided that "failure to comply with the terms of [the] Order may result in any sanction authorized by law, including dismissal of the petition for review." Petitioner never provided the information required by the Order of February 20, 2002.

On April 19, 2002, respondent filed a motion to dismiss the petition for review in each docket based on petitioner's failure to prosecute his appeal pursuant to section 805.03 of the Statutes. Following the receipt of this motion, the Commission established and served on the parties a schedule that afforded petitioner an opportunity to respond to respondent's motion by May 29, 2002. Despite the fact that four months have elapsed since the deadline set for petitioner to file his response, petitioner has failed to file a response.

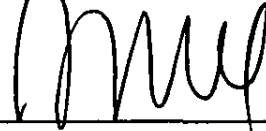
Not only has petitioner disregarded the orders of the Commission, but through his consistent course of conduct relative to these matters, petitioner has also failed to prosecute his appeals. Therefore, the Commission dismisses the petition for review in each docket pursuant to section 805.03 of the Statutes.

ORDER

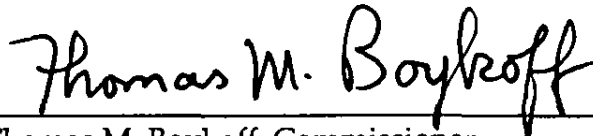
Respondent's motion is granted, and the petitions are dismissed.

Dated at Madison, Wisconsin, this 1st day of October, 2002.

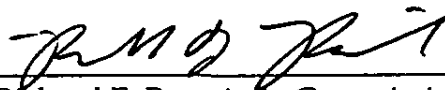
WISCONSIN TAX APPEALS COMMISSION



Don M. Millis, Commission Chairperson



Thomas M. Boykoff, Commissioner



Richard F. Raemisch, Commissioner

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"