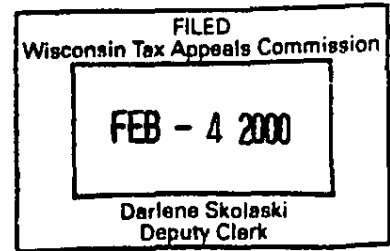
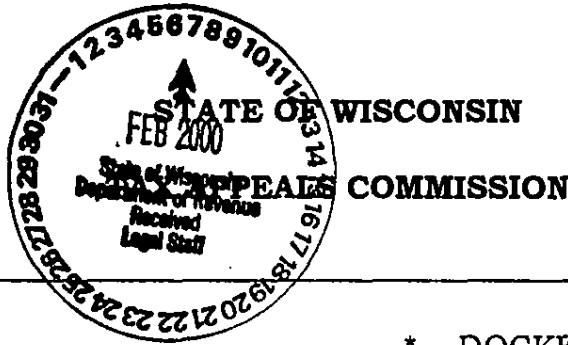


HAGNER JUDY 991177 200 020400 TAC



JUDY HAGNER
and
STRJDS TRUST,
JUDY HAGNER, TRUSTEE
P.O. Box 340244
West Milwaukee, WI 53234,

Petitioners,

vs.

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

Respondent.

* DOCKET NOS. 99-I-177
* and 99-I-200
*
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* **RULING AND ORDER**
*
* **GRANTING SUMMARY**
*
* **JUDGMENT TO RESPONDENT**
*
* **AND DENYING SUMMARY**
*
* **JUDGMENT TO PETITIONERS**
*
*

The above-entitled matters are before the Commission on the motions of respondent Department of Revenue ("Department") for (1) judgment on the pleadings under Wis. Stat. § 802.06(3) or, in the alternative, (2) summary judgment under Wis. Stat. § 802.08. The Department has filed its motions, sworn affidavits, and exhibits. The petitioners have filed several briefs, most recently on January 4, 2000, dated December 30, 1999.

Petitioners have also brought motions for summary judgment and have filed unsworn affidavits and arguments.

Petitioner Judy Hagner ("Hagner") appears on her own behalf and

on behalf of the STRJDS Trust without a representative. The Department appears by its attorney, Veronica Folstad.

Having considered the entire record, the Commission hereby states the undisputed material facts, rules, and orders as follows:

UNDISPUTED MATERIAL FACTS

**Docket No. 99-I-177
Judy Hagner Individual Income Tax**

1. Under date of April 10, 1999, petitioner Hagner filed a Wisconsin Income Tax Return (Form 1) for 1998, attaching a copy of her 1998 U.S. Individual Income Tax Return (Form 1040) and its attachments. On the Wisconsin tax return, petitioner reported only income of \$8,610.50 from social security and claimed the 1998 rent credit, resulting in no tax liability. She further claimed making estimated tax payments of \$5,691,736, resulting in a refund of \$5,691,736.

2. Under date of July 15, 1999, the Department denied petitioner Hagner's request for refund, stating that its records do not show any estimated tax payments in 1997 or credits from petitioner's 1997 return.

3. Under date of July 24, 1999, petitioner Hagner filed a petition for redetermination with the Department. In her petition, she stated that she filed a valid claim for refund and that her 1998 tax return is correct "based on Victims Civil Tort Claims Against Government."

4. In three August 1999 letters to the Department, petitioner

Hagner insisted that her claim for refund was correct and requested that the amount claimed be mailed to her. Under date of September 13, 1999, the Department denied petitioner Hagner's petition for redetermination "because there is no basis for paying the claimed refund."

5. Petitioner Hagner filed a timely petition for review with the Commission with no filing fee, declaring herself indigent. In her petition, she moved for summary judgment, requesting (1) that \$6 million be awarded to her, (2) that "\$5,691,736 plus penalties for victim" be awarded, and (3) that \$5,709,582 be awarded (consisting of \$5,691,736 "claimed credit due," \$15,000 "penalty credit due," and \$2,846 "interest credit due, 5% of claim"). In her unsworn document, petitioner Hagner calls herself an "innocent victim," states that she filed for bankruptcy in 1993 and that all of her debts were canceled, alleges that the "government" is at fault for violating the bankruptcy laws and her constitutional rights, and asserts that her claim is valid.

Docket No. 99-I-200
STRJDS Trust Fiduciary Income Tax

6. Under date of January 19, 1999, petitioner STRJDS Trust ("Trust") filed a Wisconsin Fiduciary Income Tax Return (Form 2) for 1998, attaching a copy of the Trust's 1998 U.S. Income Tax Return for Estates and Trusts and its attachments. The Trust reported no tax liability. On a line for credits against tax due, \$5,691,736 was written, and the Trust requested that the same amount be refunded to it.

7. Attached to the Trust's 1998 Wisconsin income tax return is

Schedule WD (Form 2), titled "Capital Gains and Losses." On line 7, titled "Long-Term Capital Gains and Losses — Assets Held More Than One Year or Acquired From A Decedent," petitioner describes the property involved as "Bankruptcy Estate," lists the date acquired as "1994 thru 1997 No liability," states as the date sold "Transferred 1998," and states a loss of \$5,691,736. This number is carried forward to Form 2 and claimed as a refund. Petitioner Hagner signed the returns as trustee.

8. Under date of June 15, 1999, the Department denied the Trust's claim for refund, stating that the "Trust has made no tax payments to the Wisconsin Department of Revenue in current year or prior years. The trust has not made and is not eligible to make any claims for credits."

9. Under date of June 20, 1999, the Trust filed a petition for redetermination with the Department. In the petition, the Trust asserted that it filed a valid claim for refund based on the materials submitted "showing Valid Claims From Civil Tort Claim Transferred Payment By Courts to STRJDS Trust Trustee — Case Already Filed In Courts — Courts Awarded Valid Claim For Refund to Victim." The Trust also stated that the refund claim "Is Out Of Court Money Settlement On Civil Tort Claim Against Government."

10. Under date of August 13, 1999, the Department denied the Trust's petition for redetermination.

11. The Trust filed a timely petition for review with the Commission with no filing fee, declaring itself indigent. The Trust stated it

would not appear at any hearing, requested a telephone conference "For Victim," moved for summary judgment, and asserted that the refund claim is valid based on documents submitted with the tax return.

RULING

Petitioners Hagner and the Trust insist, repeatedly, that their 1998 income tax returns are correct as filed and that each should receive a \$5,691,736 refund as claimed on both tax returns. However, petitioners provide no evidence to the Commission.

On the other hand, the Department has reviewed its records and states that, for tax year 1998, neither petitioner has paid estimated taxes nor has tax credits on the prior year returns in the amounts claimed.

Petitioners' filings are confusing, illogical, and incoherent. They provide no basis for their claims for refund. Nor do they provide any facts to support their alleged claims for refund of almost \$6 million each. In addition, no sworn affidavit supports their motion for summary judgment as required by statute.

Therefore,

IT IS ORDERED

1. That the Department's motions for summary judgment are granted.
2. That petitioners' motions for summary judgment in these matters are denied.

Dated at Madison, Wisconsin, this 4th day of February, 2000.

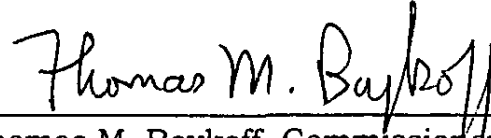
WISCONSIN TAX APPEALS COMMISSION



Mark E. Musolf, Chairperson



Don M. Millis, Commissioner



Thomas M. Boykoff, Commissioner

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"