

STATE OF WISCONSIN
TAX APPEALS COMMISSION

JODI DALTON
415 E. Main Street
Little Chute, WI 54140,

DOCKET NO. 04-I-246

Petitioner,

vs.

RULING AND ORDER

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

Respondent.

This case comes before the Commission on the motion of the respondent, Wisconsin Department of Revenue ("Department"), to dismiss the petition for review on the basis that it was not timely filed under Wis. Stat. § 73.01(5)(a).

Petitioner represents herself and has filed no objection to the motion. Chief Counsel Lili Best Crane represents the Department and has filed an affidavit with exhibits in support of the motion.

Having considered the entire record, the Commission hereby finds, rules, and orders as follows:

FACTS

1. By notice dated January 19, 2004, the Department issued an assessment of income tax and interest to petitioner in the amount of \$3,343.17 for tax years 2000, 2001, and 2002 (Affidavit of Lili Best Crane, Ex. 1).

2. Under date of February 6, 2004, received by the Department on February 13, 2004, petitioner filed a timely petition for redetermination of the assessment (Crane Affidavit, Ex. 2).

3. By certified mail dated August 2, 2004, the Department issued a notice of action which denied the petition for redetermination (Crane Affidavit, Ex. 3). Petitioner received the notice of action on August 3, 2004 (Crane Affidavit, Ex. 4).

4. On October 6, 2004, petitioner filed a petition for review with the Commission, by ordinary mail postmarked October 5, 2004.

5. The 60-day period under Wis. Stat. § 73.01(5)(a) for petitioner to file a timely petition for review with the Commission expired on October 4, 2004.¹

RULING

Section 73.01(5)(a) of the Wisconsin Statutes requires that a petition for review be filed with the Commission within 60 days of receipt of the Department's notice of action on a petition for redetermination. The requirement of timely filing has been strictly interpreted by the Commission and by the judiciary. *See, McDonald Lumber Co. v. Dep't of Revenue*, 117 Wis. 2d 446 (1984).

Petitioner did not file her petition for review with the Commission within 60 days after receipt of the notice of action on the petition for redetermination. Therefore, the Commission lacks jurisdiction over the appeal and must grant the motion.

ORDER

The Department's motion is granted, and the petition for review is dismissed.

Dated at Madison, Wisconsin, this 7th day of February, 2005.

WISCONSIN TAX APPEALS COMMISSION

Jennifer E. Nashold, Chairperson

Diane E. Norman, Commissioner

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"

¹ Sixty days from August 3, 2004 was Saturday, October 2, 2004. The sixtieth day then became Monday, October 4, 2004.