

STATE OF WISCONSIN  
TAX APPEALS COMMISSION

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JEANETTE M. KRUEGER,

DOCKET NO. 07-I-047

Petitioner,

vs.

**RULING AND ORDER**

WISCONSIN DEPARTMENT OF REVENUE,

Respondent.

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**DIANE E. NORMAN, ACTING CHAIRPERSON:**

This case comes before the Commission on the motion of the Wisconsin Department of Revenue (“Department”) for a protective order pursuant to Wis. Stat. § 804.01(3).

Petitioner appears *pro se* and has filed a response and an affidavit in opposition to the motion. Attorney Sheree Robertson represents the Department and has filed an affidavit with exhibits in support of the motion, as well as a reply letter.

Having considered the entire record, including the motion, affidavits and exhibits, the Commission hereby finds, rules, and orders as follows:

**JURISDICTIONAL AND MATERIAL FACTS**

1. On March 21, 2007 petitioner filed a petition for review of the Department’s estimated assessment of her 2002 Wisconsin income taxes.
2. On April 20, 2007, the Department filed a Notice of Motion, Motion for Summary Judgment and Alternative Answer along with a supporting brief, affidavit and exhibits.

3. On May 24, 2007, petitioner filed a document entitled, "Motion to Compel Discovery" along with a supporting memorandum of law and affidavit in response to the motion. The "Motion to Compel Discovery" states in pertinent part:

Jeanette M. Krueger moves the State of Wisconsin Tax Appeals Commission to compel Discovery in favor of the Petitioner in the above captioned matter on the grounds that the Respondent has consistently attempted to evade, dismiss and refuse to acknowledge requests by the petitioner for clarification of the laws and statutes to which the Respondent claims the Petitioner is liable for.

4. On June 11, 2007, petitioner filed copies of "Petitioner's First Set of Admission" and "Petitioner's First Set of Interrogatories" that had been sent to the Department. These documents generally request the Department to identify the authority for the state of Wisconsin to tax petitioner's income.

5. On June 26, 2007, the Commission issued a Ruling and Order granting the Department's Motion for Summary Judgment affirming the Department's action on petitioner's petition for redetermination and ordering petitioner to pay an additional assessment of \$300 pursuant to Wis. Stat. § 73.01(4)(am) for filing a frivolous petition.

6. On June 29, 2007, the Department filed a Notice of Motion and Motion for Protective Order pursuant to Wis. Stat. § 804.01(3)1 for protection against petitioner's discovery requests that had been filed with the Commission on June 11, 2007.

7. On July 18, 2007, petitioner filed a response to the Department's Motion for Protective Order in which she again generally requests the Department to identify the authority for the state of Wisconsin to tax petitioner's income.

## **RULING**

Wis. Stat. § 804.01(2) (a) states in part, that “Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . .” In the Commission’s Ruling and Order dated June 26, 2007, we found that there was no genuine issue of material fact in the case, and the Department was entitled to summary judgment as a matter of law. Since the Ruling and Order was dispositive of the case, there is no pending action at this time and petitioner’s discovery requests are rendered moot. However, lest there be any question as to whether petitioner is entitled to a response to her requests for discovery, the Commission makes clear that she is not.

### **IT IS ORDERED**

The Department's motion for a protective order from petitioner's discovery requests is granted, pursuant to Wis. Stat. §804.01(3), and the Department is not required to answer them.

Dated at Madison, Wisconsin, this 31st day of July, 2007.

### **WISCONSIN TAX APPEALS COMMISSION**

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Diane E. Norman, Acting Chairperson

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David C. Swanson, Commissioner

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"