

**STATE OF WISCONSIN**  
**TAX APPEALS COMMISSION**

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**CHRISTOPHER QUINN**  
500 Waldeburg Road  
Ben Lomond, CA 95005,

**DOCKET NO. 03-I-212**

Petitioner,

vs.

**RULING AND ORDER**

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

Respondent.

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**THOMAS M. BOYKOFF, COMMISSIONER:**

This matter comes before the Commission on the motion of respondent, Wisconsin Department of Revenue ("Department"), to dismiss petitioner's petition for review. The Department moves to dismiss pursuant to Wis. Stat. § 805.03 for petitioner's failure to prosecute and pursuant to Wis. Stat. § 802.10(7) for petitioner's failure to comply with scheduling and pretrial orders of the Commission.

Petitioner represents himself. Attorney John R. Evans represents the Department. With its motion, the Department submitted an affidavit, exhibits, and a brief. Petitioner has not responded to the motion, although he was afforded the opportunity to do so.

Based on the entire record, the Commission finds, rules, and orders as follows:

## **FINDINGS**

1. Under date of August 12, 2002, the Department issued an assessment to petitioner for \$3,530.87, representing income tax, interest, and fees for tax years 1997, 1998, and 1999.

2. On October 7, 2002, petitioner filed a letter with the Department which was deemed a petition for redetermination. In the petition, petitioner asserted that he was not a resident of Wisconsin after March 1997.

3. Under date of April 3, 2003, the Department issued its Notice of Action and denied petitioner's petition for redetermination, whereupon petitioner filed a timely appeal to the Commission. In his petition for review, petitioner stated that his domicile in Wisconsin ended March 30, 1997.

4. The Commission held four telephone status conferences ("telephone conference") for this case: on October 28 and December 3, 2003, and on January 14 and February 18, 2004. The day following each telephone conference, a Status Conference Memorandum and Order ("Conference Memo") was sent to the parties.

5. Petitioner participated in the October 28 and December 3, 2003 telephone conferences, during which he insisted that he terminated his Wisconsin residence in May or June 1996. He stated that he was a trucker and lived in his truck. Because petitioner said he planned to consult an attorney to discuss the assessment, the Conference Memo following each of these telephone conferences ordered him to consult a tax professional. Petitioner has not given the Commission any indication that he

complied with the orders.

6. The Conference Memo issued following the December 3, 2003 telephone conference also ordered petitioner to telephone the Commission prior to the January 14, 2004 telephone conference and provide a telephone number at which he could participate in that conference. He did not comply and did not participate in that telephone conference.

7. The Conference Memo issued following the January 14, 2004 telephone conference ordered petitioner to telephone the Commission prior to the February 18, 2004 telephone conference and provide a telephone number at which he could participate in that conference. Again, he did not comply and did not participate in that telephone conference.

8. During the first two telephone conferences, petitioner provided the Commission with two telephone numbers (one in New Hampshire and one in California) and two addresses (in the same states). He could not be reached at either telephone number for either the January 14 or February 18, 2004 telephone conference.

9. Beginning in December 2003, petitioner did not respond to mail from the Commission and the Department addressed to him at both addresses. The Conference Memo following the December 3, 2003 telephone conference was sent to petitioner's New Hampshire address, by first class mail, but was returned to the Commission by the U. S. Postal service with the notation 'MOVED - LEFT NO ADDRESS - UNABLE TO FORWARD'. It was then sent to petitioner's California address, by first class mail, and was not returned to the Commission.

## **RULING**

Under Wis. Stat. § 73.01(5)(b), at all times while an appeal is pending before the Commission, a petitioner "shall keep the commission informed as to the petitioner's residence." Petitioner gave the Commission and the Department addresses in New Hampshire and California. However, mail to those addresses was either returned or not acknowledged. Petitioner has failed to comply with this statute.

Under Wis. Stat. § 805.03,<sup>1</sup> if a petitioner fails to prosecute a case, comply with statutes governing procedures or obey an order of the Commission, the Commission may dismiss the case. Furthermore, Wis. Stat. § 802.10(7) provides that violation of a scheduling or pretrial order constitutes a basis for a case to be dismissed.

Petitioner failed to participate in two telephone conferences in 2004 after he received notice of both. He failed to keep the Commission apprised of his mailing address during the pendency of this case. He also failed to obey Commission orders to (1) provide the Commission with a telephone number so he could participate in telephone conferences and (2) meet with a tax professional to discuss his case. (If he did so, he did not inform the Commission of it.)

## **ORDER**

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

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<sup>1</sup> This statute was adopted as a practice before the Commission pursuant to Wis. Admin. Code § TA 1.39.

Dated at Madison, Wisconsin, this 27th day of April, 2004.

**WISCONSIN TAX APPEALS COMMISSION**

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Don M. Millis, Commission Chairperson

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Thomas M. Boykoff, Commissioner

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"