

Library



DISTRICT IV

Office of the Clerk

**COURT OF APPEALS
OF WISCONSIN**

Rychter
STATE OF WISCONSIN
DEPARTMENT OF REVENUE
RECEIVED
MAY 7 1982
LEGAL DIVISION

0100600

Marilyn L. Graves
Clerk

May 3, 1982

Madison,

To: Gertrude A. McKenzie
11 S. Ringold St.
Janesville, WI 53545

Hon. Mark J. Farnum
Janesville, WI 53545

F. Thomas Creeron, III
Asst. Attorney General

Clerk of Circuit Court
Janesville, WI 53545

You are hereby notified that the Court entered the following order:

#82-056 - Gertrude A. McKenzie v. Wis. Dept. of Revenue
(Trial court case no. CV 296 A)

BEFORE GARTZKE, P.J., BABLITCH, J. AND DYKMAN, J.

The appellant's brief and appendix was filed March 22, 1982. The department moves for summary affirmance of the appeal. The court concludes that the motion should be granted.

The department assessed taxes against the appellant for the years 1971 and 1972. The appellant appealed to the tax appeals commission and contended it had no jurisdiction. The appeal was denied and the circuit court affirmed.

The department had the power to assess taxes under secs. 71.11(1) and (4), Stats. The appellant invoked the

(See next page)

Page 2.

jurisdiction of the tax appeals commission when she petitioned for review pursuant to sec. 73.01(5), Stats. The appellant had a duty pursuant to sec. 71.12(3), Stats., to make full disclosure, but failed to do so. No evidence was presented before the tax appeals commission in support of her position. There is no right to a jury trial in a tax case. Walker v. Sauvinet, 92 U.S. 90 (1875); Cunningham v. Northwestern Improvement Co., 44 Mont. 180, 119 P. 554, 563 (1911). The assessment of the department is presumed to be correct and the burden of proof is upon the taxpayer to show error in the additional assessment. Woller v. Dept. of Taxation, 35 Wis.2d 227, 232-233, 151 N.W.2d 170, 172-173 (1976).

Upon the foregoing reasons,

IT IS ORDERED that the judgment is summarily affirmed.
Rule 809.21.

Marilyn L. Graves
Clerk of Court of Appeals