

UPHOFF JACQUELINE J 85CV4132 022086 DANE CTY CIR CT

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STATE OF WISCONSIN : IN CIRCUIT COURT : DANE COUNTY

#85 CV 4132

JACQUELINE J. UPHOFF,

Petitioner,

vs.

WISCONSIN DEPARTMENT OF REVENUE,

Respondent.

MEMORANDUM

DECISION

STATE OF WISCONSIN
DEPARTMENT OF REVENUE
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LEGAL DIVISION

This matter is before the Court on petitioner's appeal from a decision of the Wisconsin Tax Appeals Commission affirming a tax assessment by respondent-Wisconsin Department of Revenue against petitioner-Uphoff. Respondent made an assessment pursuant to §71.11(4), Stats., in the amount of \$9,280.00 against petitioner because of petitioner's failure to file 1978, 1979, 1980, 1981 and 1982 Wisconsin income tax returns. Petitioner brings this appeal on the following grounds: that petitioner never received notice of the Commission's hearing on her administrative appeal and petitioner's non-appearance at the hearing deprived petitioner of her legal rights; that petitioner's religious beliefs provide a constitutional basis for non-compliance with Wisconsin's tax laws; and, that petitioner cannot be compelled to make payment of taxes in a currency that is not

redeemable in gold or silver. The Court denied petitioner's request for an opportunity to present oral argument. There are no genuine issues regarding any material facts before the Court.

Petitioner is attempting to claim complete exemption from Wisconsin income taxation. The record indicates petitioner never provided respondent with personal financial data and petitioner consistently followed a course of non-compliance with Wisconsin tax laws. Petitioner placed reliance on meritless legal arguments advanced by some tax protesters involving the constitutionality of taxation, sovereignty, attempts to disassociate oneself from the state's general welfare and police power measures, religious freedom, illegality of state imposed tax assessment, unconstitutional currency restrictions, and limitations on basic rights of individuals. Essentially, the state cannot efficiently collect taxes unless the system of taxation precludes continual debates with individuals regarding tax expenditures. Petitioner may not perceive any benefits from Wisconsin taxes, but that is not germane. Wisconsin taxpayers are expected to cooperate with respondent in the payment of their taxes. Mechanisms have been established to impose taxes on individuals following a course of non-compliance. Petitioner's failure to file income tax returns or provide financial

information made it necessary for respondent to make a state-imposed tax assessment for the delinquent years in question against petitioner based on an estimate as to petitioner's annual income. Petitioner's failure to appear at the hearing on her own appeal before the Tax Appeals Commission did not affect the disposition of this matter because of the lack of genuine material issues to be presented. Petitioner's position throughout these proceedings has simply been one of non-compliance. Because the Commission is inundated with tax protester cases presenting meritless issues, it is finding it necessary to deal with these cases in an expedient manner. See generally Daniel T. Betow v. Department of Revenue, Wisconsin Tax Appeals Commission, Docket No. 1-8737 (June 10, 1982), affirmed 116 Wis.2d 695 (Ct. App. 1983).

Petitioner attempts to raise as an issue on appeal her failure to receive notice of the Tax Appeals Commission hearing regarding this matter on June 12, 1985. The record contains the envelope used for the notice, duly marked, evidencing delivery was attempted on May 21, May 26 and May 31, and after delivery was not accomplished the notice was returned to sender "unclaimed." Respondent attempted to achieve notification in the normally accepted manner; therefore, petitioner's objection based on a notice argument has no basis in fact.

There was some confusion regarding which years constituted the period of delinquency for respondent's tax assessment. Some of the records indicated the assessment was based upon petitioner's failure to file 1979, 1980, or 1981 Wisconsin income tax returns. But the Wisconsin Department of Revenue Office Audit Worksheet indicated the assessment was based on the tax period from 1978 to 1982. It would seem a minor clerical error was made and then repeated several times. Petitioner regarded this discrepancy as exonerating her from part or all of her tax obligation to respondent. The actual amount owed was consistently represented as totaling \$9,280.00. While the Court notes this error in the record, there is no reason to remand for this purpose. The Court finds that the tax assessment of \$9,280.00 on review is for the years 1978, 1979, 1980, 1981 and 1982.

Wisconsin previously determined that federal reserve notes are legal tender for both public and private debts in this state. Kauffman v. Citizens State Bank of Loyal, 102 Wis.2d 528, 533, 307 N.W.2d 325 (Ct. App. 1981). Petitioner's argument based on an alleged attempt by respondent to force petitioner to violate art. I, sec. 10 of the United States Constitution is without merit.

Petitioner's arguments are imbued with a religious conviction that Wisconsin state taxes are antithetical to her

religious beliefs. Respondent cannot treat taxpayers differently based upon religious beliefs. Creating a tax system that distinguished between individual taxpayers on the basis of religious beliefs would stifle religious freedom far more than does enforcing a tax system that is blind to the religious beliefs of individual taxpayers. Addressing this issue, the Ninth Circuit provided in Autenrieth v. Cullen, 418 F.2d 586 (9th Cir. 1969), cert. denied, 397 U.S. 1036, that

nothing in the Constitution prohibits the Congress from levying a tax upon all persons, regardless of religion, for support of the general government. The fact that some persons may object, on religious grounds, to some of the things that the government does is not a basis upon which they can claim a constitutional right not to pay a part of the tax. Id. at 588.

. . . .
If every citizen could refuse to pay all or part of his taxes because he disapproved of the government's use of the money, on religious grounds, the ability of the government to function could be impaired or even destroyed. Id. at 588-89.

With the objectives of orderly government and fairly balancing diverse beliefs in mind, petitioner's arguments for non-imposition of taxes on religious grounds are rejected.

CONCLUSION

Petitioner provided no genuine issue regarding any material fact in this matter. Further, the record shows petitioner followed a course of non-compliance regarding her tax obligations.

Therefore, the Court denies petitioner's appeal. The Court affirms respondent's income tax assessment in the amount of \$9,280.00 for petitioner's failure to file complete and proper Wisconsin income tax returns for 1978, 1979, 1980, 1981 and 1982.

So ordered.

Dated: February 20, 1986.

BY THE COURT:



P. Charles Jones, Circuit Judge