

SEP 30 2025

STATE OF WISCONSIN
TAX APPEALS COMMISSION

Wisconsin Tax Appeals Commission
Drew Fox - Clerk

YUSUF MUHUMMAD,

DOCKET NO. 24-I-239

Petitioner,

v.

WISCONSIN DEPARTMENT OF REVENUE,

Respondent.

DECISION AND ORDER

JESSICA ROULETTE, COMMISSIONER:

This case comes before the Commission for decision following a trial held on July 15, 2025. The issue is whether Petitioner, Mr. Yusuf Muhammad, was eligible to claim the Earned Income Credit for the 2023 tax year. The Petitioner appeared in person. The Department of Revenue ("the Department") appeared by Attorney Kasey Reese of Madison, Wisconsin.

Prior to the trial, the parties filed a partial Joint Stipulation of Facts. At the trial, the Commission received and entered into evidence Exhibits A through C, E through L, O through T, V, and X through Z. Petitioner presented sworn testimony from Mr. Muhammad. The Respondent presented sworn testimony from Ms. Carrie Kloss.

The facts found at trial are listed below. Based upon the credible testimony and evidence in the record, the Commission finds that Petitioner has failed to meet his burden of proof as to the correct amount of earned income tax credit, if any, to which he

is entitled.

FINDINGS OF FACT

A. Jurisdictional Facts

1. On May 3, 2024, the Department issued a Notice of Changes - Individual Income Tax to the Petitioner for the 2023 tax year. (Trial Exhibit ("Tr. Ex.") B.)
2. On June 6, 2024, Petitioner filed a Petition for Redetermination. (Tr. Ex. C.)
3. On November 15, 2024, the Department issued a Notice of Action granting Petitioner a \$12.00 refund for the 2023 tax year. (Tr. Ex. E.)
4. On December 2, 2024, Petitioner filed a timely Petition for Review with the Commission by placing a copy of the Petition and attachments in the U.S. Mail by certified mail on that date. (Commission file.)
5. On July 15, 2025, the Commission held a trial in this matter, which was duly recorded.

B. Material Facts

6. Mr. Yusuf Muhummad is, and was, during the entire year of 2023, an adult resident of the State of Wisconsin.
7. On or about February 18, 2024, Mr. Yusuf Muhummad electronically filed a Wisconsin income tax return for 2023 as an unmarried head of household¹ on Wisconsin Form 1, with a completed Wisconsin Earned Income Credit worksheet attached.

¹ This decision does not address whether or not Mr. Muhummad remains qualified to file using the head of household filing status in 2023 as that issue was not raised by the Department.

8. Mr. Muhammad claimed the Earned Income Credit for three of his grandchildren², all of whom are the minor children of Mr. Muhammad's adult daughter³.

9. In its May 3, 2024, Notice of Changes, the Department reduced the earned income credit from \$2,526.00 to \$0.00, thereby reducing the total refund due to Petitioner from \$2,526.00 to \$0.00. The Department offered multiple valid explanatory notes for the reductions. The Department indicated that the reported self-employment income and associated self-employment tax deduction were denied due to lack of substantiating documentation. The Department changed the standard deduction allowance to match Petitioner's corrected filing status and income. The Department denied the earned income tax credit because the children did not reside with Petitioner for more than half the year. The Department further indicated that the Petitioner was not eligible to claim the earned income credit because he had no earned income and because the children did not qualify Petitioner to claim the credit. (Tr. Ex. B.)

10. After reviewing Petitioner's Request for Redetermination, the Department allowed business miles and determined that Petitioner was due a refund in the amount of \$12.00 for the 2023 tax year. This was the amount stated in the Department's November 15, 2024, Notice of Action which Petitioner timely appealed to the Commission.

11. The Department did not issue a new or revised Notice of Action or a new or revised Notice of Changes to Petitioner after May 3, 2024.

² Damillion T., Jur'Nee L., and Mauriona S.

³ Maurisha Hudson.

12. During the pretrial proceedings related to this matter and during the July 15, 2025 trial, the Department introduced credible evidence suggesting that the determination that the Petitioner was due a refund in the amount of \$12.00 for the 2023 tax year was incorrect; that the business expenses allowed should not have been allowed; and that Petitioner did not qualify for the earned income credit.

13. Petitioner failed to establish that any of his grandchildren resided with him for any period of time in 2023; the Commission found neither Petitioner's oral testimony nor his proffered documentary evidence regarding the location of the children's residence in 2023 to be credible.

APPLICABLE LAW

SUBCHAPTER I TAXATION OF INDIVIDUALS AND FIDUCIARIES

Wis. Stat. § 71.02 Imposition of tax

(1) . . . Every natural person domiciled in the state shall be deemed to be residing within the state for the purposes of determining liability for income taxes. . . .

Wis. Stat. § 71.05 Income computation

(22) STANDARD DEDUCTION

(dp) Deduction limits, 2000 and thereafter.

1. . . . [F]or taxable years beginning after December 31, 1999, the Wisconsin standard deduction is whichever of the following amounts is appropriate. For a single individual who has a Wisconsin adjusted gross income of less than \$10,380, the standard deduction is \$7,200. . . . The secretary of revenue shall prepare a table under which deductions under this subdivision shall be determined. That table shall be published in the department's instructional booklets.

Wis. Stat. § 71.07 Credits

(9e) EARNED INCOME TAX CREDIT

(aj) For taxable years beginning after December 31, 2010, an individual may credit against the tax imposed under s. 71.02

an amount equal to one of the following percentages of the federal basic earned income credit for which the person is eligible under section 32 of the Internal Revenue Code:

1. If the person has one qualifying child who has the same principal place of abode as the person, 4 percent.
2. If the person has 2 qualifying children who have the same principal place of abode as the person, 11 percent.
3. If the person has 3 or more qualifying children who have the same principal place of abode as the person, 34 percent.

I.R.C. § 32 – Earned Income Credit

(a) Allowance of credit

(1) In general

In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed the earned income amount.

...

(c) Definitions and special rules. For purposes of this section

(1) Eligible individual

(A) In general. The term "eligible individual" means -

(i) any individual who has a qualifying child for the taxable year, or

(ii) any other individual who does not have a qualifying child for the taxable year, if -

(I) such individual's place of abode is in the United State for more than one-half of the taxable year,

(II) such individual . . . has attained age 25 but not attained age 65 before the close of the taxable year, and

(III) such individual is not a dependent for whom a deduction is allowable under section 151 to another taxpayer for any taxable year beginning in the same calendar year as such taxable year.

...

(2) Earned income

(A) The term "earned income" means -

(i) wages, salaries, tips, and other employee compensation, but only if such amounts are includible in gross income for the taxable year, plus

(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of

section 1402(a)), but such net earnings shall be determined with regard to the deduction allowed to the taxpayer by section 164(f).

...

(3) Qualifying child

(A) In general. The term “qualifying child” means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

...

(C) Place of abode. For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

...

ANALYSIS

This case involves the income tax return filed by Mr. Yusuf Muhummad for the 2023 tax year, on which he claimed an earned income tax credit in the amount of \$2,526.00. The Department of Revenue initially denied that claim, because the earned income tax credit is only available to individuals who had earned income, and with whom eligible children resided for more than half of the year. Petitioner appealed the denial of the credit to the Department, and the Department modified its original decision denying the credit, determining that Petitioner was eligible for \$12.00 of the earned income tax credit, because it accepted proffered documentation regarding the children’s residence, and because the claimed business expenses reduced Petitioner’s reported self-employment income to the point that \$12.00 of the credit was available to Petitioner. The Petitioner then appealed to the Wisconsin Tax Appeals Commission. At trial, the Department offered evidence in support of its initial position that the Petitioner was not eligible for the claimed credit because: 1) Petitioner could not substantiate his reported self-employment income, 2)

Petitioner could not substantiate that any of the children lived with him for more than half the year, and 3) Petitioner could not establish that he was eligible to claim the children under the “tie-breaker” rule contained in Federal statute detailing the determination of eligible child.

The Department's assessments are presumed to be correct. The burden falls upon a petitioner to prove by clear and satisfactory evidence any errors in the Department's determination. *Puissant v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶ 202-401 (WTAC 1984). The Commission's powers of review do not require that the Commission “approve or disapprove of the [Department]'s actions . . . in toto.” *Sentry Financial Servs. Corp. v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶ 203-034 (WTAC 1989), *aff'd as to outcome*, *Wisconsin Dep't. of Revenue v. Sentry Financial Servs. Corp.*, 161 Wis.2d 902 (Wis. App. 1991). The Commission is the sole fact finder and, subject to judicial review, the arbiter of questions of law in tax matters. The Commission has the authority to redetermine the correct application of Wis. Stat. § 71.07(9e) on the basis of the evidence before us.

Tax credits are a matter of legislative grace and construed strictly against the taxpayer. *L & W Const. Co. v. Dept. of Revenue*, 149 Wis. 2d 684, 690, 439 N.W.2d 619, 621 (Ct. App. 1989) (citing *Ramrod, Inc. v. Dept. of Revenue*, 64 Wis. 2d 499, 504, 219 N.W.2d 604, 607 (1974)). In this appeal, the dispute between the Petitioner and the Department centers on the earned income tax credit described in Wis. Stat. § 71.07(9e).

The Commission begins its analysis by noting that it has been unable to find a case where the Department did not present evidence at an evidentiary hearing in support of the assessment presented in its Notice of Action. The Commission did find at least one

case where the Department issued a revised Notice of Action prior to trial and proceeded at trial to provide evidence in support of its revised assessment. *See Julie Chier v. Dept. of Revenue*, Wis. Tax Rptr. (CCH) ¶ 402-506 (WTAC 2022). The Department neither issued a revised Notice of Action in this matter nor supplied evidence in support of the Notice of Action appealed here by the Petitioner.

The facts in evidence fail to establish that Petitioner had any income, much less what an accurate amount of income would be for Petitioner, for the 2023 tax year. Petitioner offered a selection of bank account statements for the 2023 tax year and asked that the Commission accept the year-end balances of the accounts presented as proof of his income. The Commission finds that year-end bank account balances are not clear and satisfactory evidence of Petitioner's income for the 2023 tax year. The Commission also notes that based on the evidence provided at trial, Petitioner has multiple additional bank accounts in which no activity or year-end account balances were provided. Even if we were inclined to accept Petitioner's novel legal theory that year-end balances are the same as annual income, we could not consider the information provided at trial as clear and satisfactory evidence of this Petitioner's annual income for the 2023 tax year, because the proffered evidence did not include year-end statements from each of Petitioner's bank accounts. Therefore, we find that Petitioner has not established that he had any earned income in the 2023 tax year.

In the absence of earned income, a taxpayer is not eligible to claim an earned income tax credit. Therefore, Petitioner's appeal is dismissed. While evidence was also presented regarding whether Petitioner could claim any eligible children as part of his

earned income credit claim, in the absence of clear and satisfactory evidence of earned income, the review is not necessary.⁴

CONCLUSIONS OF LAW

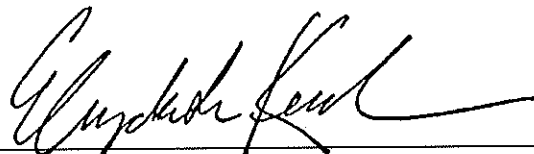
1. Petitioner did not have adequate earned income in the 2023 tax year to claim the Earned Income Credit pursuant to Wis. Stat. § 71.07(9e)(aj).

ORDER

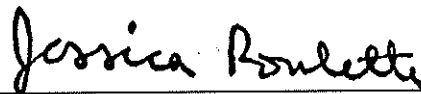
That Petitioner's Petition for Review is dismissed.

Dated at Madison, Wisconsin, this 30th day of September, 2025.

WISCONSIN TAX APPEALS COMMISSION



Elizabeth Kessler, Chair



Jessica Roulette, Commissioner



Kenneth P. Adler, Commissioner

ATTACHMENT: NOTICE OF APPEAL INFORMATION

⁴ In summary, Petitioner failed to establish that any of his grandchildren lived with him for more than half the year in 2023. Neither his oral testimony nor the documents he offered into the record were credible on the issue of the location of the children's residence during 2023.

WISCONSIN TAX APPEALS COMMISSION
101 E Wilson St, 5th Floor
Madison, Wisconsin 53703

NOTICE OF APPEAL INFORMATION

NOTICE OF RIGHTS FOR REHEARING, OR JUDICIAL REVIEW, THE TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE PARTY TO BE NAMED AS RESPONDENT

A taxpayer has two options after receiving a Commission final decision:

Option 1: PETITION FOR REHEARING BEFORE THE COMMISSION

The taxpayer has a right to petition for a rehearing of a final decision within 20 days of the service of this decision, as provided in Wis. Stat. § 227.49. The 20-day period commences the day after personal service on the taxpayer or on the date the Commission issued its original decision to the taxpayer. The petition for rehearing should be filed with the Tax Appeals Commission and served upon the other party (which usually is the Department of Revenue). The Petition for Rehearing can be served either in-person, by USPS, or by courier; however, the filing must arrive at the Commission within the 20-day timeframe of the order to be accepted. Alternately, the taxpayer can appeal this decision directly to circuit court through the filing of a petition for judicial review. It is not necessary to petition for a rehearing first.

AND/OR

Option 2: PETITION FOR JUDICIAL REVIEW

Wis. Stat. § 227.53 provides for judicial review of a final decision. Several points about starting a case:

1. The petition must be filed in the appropriate county circuit court and served upon the Tax Appeal Commission and the other party (which usually is the Department of Revenue) either in-person, by certified mail, or by courier, within 30 days of this decision if there has been no petition for rehearing or, within 30 days of service of the order that decides a timely petition for rehearing.
2. If a party files a late petition for rehearing, the 30-day period for judicial review starts on the date the Commission issued its original decision to the taxpayer.
3. The 30-day period starts the day after personal service, or the day we mail the decision.
4. The petition for judicial review should name the other party (which is usually the Department of Revenue) as the Respondent, but not the Commission, which is not a party.

For more information about the other requirements for commencing an appeal to the circuit court, you may wish to contact the clerk of the appropriate circuit court or the Wisconsin Statutes. The website for the courts is <https://wicourts.gov>.

This notice is part of the decision and incorporated therein.