

GULLING DAVID I11117 040185 TAC

February

STATE OF WISCONSIN
TAX APPEALS COMMISSION

STATE OF WISCONSIN
DEPARTMENT OF REVENUE
RECEIVED
APR 2 1985
LEGAL DIVISION

DAVID GULLING	:	
754 Hwy. 83 South	:	
Hartford, WI 53027	:	DOCKET NO. I-11117
	:	
Petitioner,	:	RULING AND ORDER ON
	:	
vs.	:	MOTION TO DISMISS OR
	:	
WISCONSIN DEPARTMENT OF REVENUE	:	GRANT SUMMARY JUDGMENT
P.O. Box 8933	:	
Madison, WI 53708	:	
	:	
Respondent.	:	

Pursuant to the respondent's notice of motion, this Commission convened in Room 611A, GEF-2 Building, 101 S. Webster Street, Madison, Wisconsin, at 2:30 p.m., on March 11, 1985, for the purpose of hearing respondent's motion for an order dismissing the petition for review in the above-entitled matter on the grounds that said petition fails to state a claim upon which relief can be granted.

The petitioner, David Gulling, failed to appear in person or by a representative. The respondent, Wisconsin Department of Revenue, appeared by its attorney, Veronica Folstad, who introduced exhibits and then moved for dismissal on the grounds stated above.

Having reviewed the entire matter, this Commission hereby finds, rules and orders as follows:

1. Petitioner, David Gulling, filed a 1983 Wisconsin income tax return with the respondent, Wisconsin Department of Revenue, reporting total Wisconsin taxable income for 1983 of

\$17,786.91, net Wisconsin income tax of \$789.00, Wisconsin income tax withheld of \$627.40, and a Wisconsin net income tax due of \$161.60.

2. Petitioner did not pay the net tax due of \$161.60 to the respondent with his tax return.

3. Under date of July 9, 1984, the respondent issued a notice of assessment of additional income taxes due against the petitioner in the amount of \$151.60 (plus interest). Said assessment contained the following explanation: "YOUR NET TAXABLE INCOME PER RETURN AS FILED".

4. On August 15, 1984, the petitioner filed a petition for redetermination of said assessment, which the respondent denied on November 12, 1984. On January 10, 1985, the petitioner filed an appeal of said denial with this Commission.

5. There is nothing for this Commission to review, as the respondent has accepted the petitioner's 1983 Wisconsin income tax return as filed and is merely assessing the Wisconsin net income taxes reported but not paid by the petitioner.

6. There is no genuine issue as to any material fact involved, and the respondent is entitled to dismissal of the petition for review as a matter of law.

7. There exists no legal basis on which to grant relief to the petitioner.

8. The respondent has shown good and sufficient cause for the granting of its motion for summary judgment.

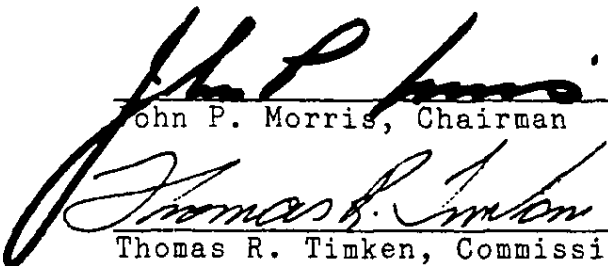
Therefore,


IT IS ORDERED

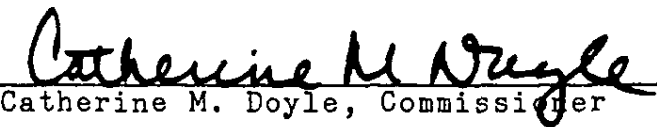
That respondent's motion is hereby granted and summary judgment for the respondent is entered accordingly.

Dated at Madison, Wisconsin, this 1st day of April, 1985.

WISCONSIN TAX APPEALS COMMISSION


John P. Morris, Chairman


Thomas R. Timken, Commissioner


Catherine M. Doyle, Commissioner

cc: Petitioner
Respondent

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"