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STATE OF WISCONSIN
DEPARTMENT OF REVENUE
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STATE OF WISCONSIN
TAX APPEALS COMMISSION

CONRAD LE BEAU	:	
1309 Monroe Avenue	:	
South Milwaukee, WI 53172	:	DOCKET NO. I-10,514
	:	
Petitioner,	:	RULING AND ORDER ON MOTION
	:	
vs.	:	FOR JUDGMENT ON THE
	:	
WISCONSIN DEPARTMENT OF REVENUE	:	PLEADINGS OR FOR SUMMARY
P.O. Box 8933	:	
Madison, WI 53708	:	JUDGMENT
	:	
Respondent.	:	

Pursuant to this Commission's notice, this Commission convened in Room 45 of the State Office Building, 819 N. 6th Street, Milwaukee, Wisconsin, at 10:30 a.m., on June 13, 1984, for the purpose of hearing the respondent's motion for a judgment on the pleadings or, in the alternative, for summary judgment in the above-entitled matter on the grounds that (a) petitioner has failed to state a claim in his petition for review upon which relief can be granted by this Commission, and (b) there is no genuine issue as to any material fact, and the respondent is entitled to an order affirming its assessment as a matter of law pursuant to Section 802.06(3) or Section 802.08, Wis. Stats. The petitioner has objected to granting of said motion.

The petitioner, Conrad LeBeau, appeared in person, as his own representative. The respondent, Wisconsin Department of Revenue, appeared by Donald Goldsworthy, its attorney.

Testimony, evidence, and oral arguments were presented by the parties in support of and in opposition to the respondent's motion.

Having considered the respondent's motion, the oral arguments of the parties, and the entire record herein, this Commission finds and orders as follows:

1. By notice dated August 15, 1983, respondent issued a dooamage assessment against the petitioner in the amount of \$6,466.00 on petitioner's failure to file complete and proper 1981 and 1982 Wisconsin income tax returns.

2. The petitioner was a person required to file 1981 and 1982 Wisconsin income tax returns.

3. The petitioner subsequently filed a 1982 Wisconsin income tax return, which is not at issue herein.

4. The petitioner submitted to the respondent a 1981 Wisconsin Form 1 Long Form which indicated 'NO LAWFUL DOLLARS EARNED'.

5. The petitioner filed a timely petition for redetermination with the respondent.

6. By notice dated December 26, 1983, respondent issued to the petitioner a notice of action on the petitioner's petition for redetermination, granting the portion relating to 1982 and denying the portion relating to 1981.

7. The petitioner testified under oath that he was self-employed as a carpenter during the period under review and had income from his business which was not reported in his 1981 Wisconsin income tax return. The petitioner also refused, when requested, to file an amended and proper return for 1981.

8. Respondent properly assessed petitioner for the year 1981 by estimating his income in said year.

9. Petitioner failed to present any evidence to overcome the presumption of correctness inherent in respondent's assessment.

10. The arguments made by petitioner in this matter have been consistently rejected by the courts of this State and are totally frivolous.

11. Respondent has shown good and sufficient cause for the granting of its motion for summary judgment in that there is no genuine issue as to any material fact, and the respondent is entitled to an order affirming its assessment as a matter of law pursuant to Section 802.06(3), Wis. Stats., or in the alternative, Section 802.08, Wis. Stats.

Authority: Paul W. Christian and Yvonne D. Christian
v. Wis. Dept. of Revenue, Marathon County
Circuit Court, Case No. 82-CV-1208
(May 4, 1984).

Therefore,

IT IS ORDERED

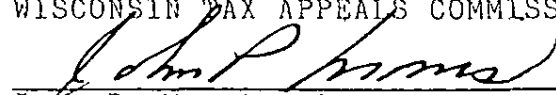
That respondent's motion for summary judgment in the above-entitled matter is hereby granted.

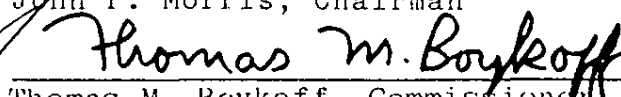
Dated at Madison, Wisconsin, this 22nd day of June, 1984.

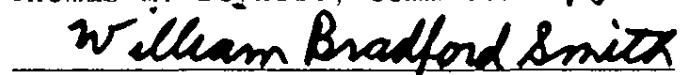
cc: Petitioner
Respondent

ATTACHMENT: "NOTICE
OF APPEAL INFORMATION"

WISCONSIN TAX APPEALS COMMISSION


John P. Morris, Chairman


Thomas M. Boykoff, Commissioner


William Bradford Smith, Commissioner