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STATE OF WISCONSIN
TAX APPEALS COMMISSION

STATE OF WISCONSIN
DEPARTMENT OF REVENUE
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LEGAL DIVISION

CHRISTOPHER E. PEHOSKI :
6675 Hwy 10 East :
Stevens Point, WI 54481 : DOCKET NO. I-11311

Petitioner, :

vs. : RULING AND ORDER

WISCONSIN DEPARTMENT OF REVENUE :
P.O. Box 8933 :
Madison, WI 53708 :

Respondent. :

Pursuant to its notice, this Commission convened in Conference Room #1 of the Marathon County Courthouse, Wausau, Wisconsin, at 9:00 a.m., on March 25, 1986, for the purpose of hearing the above-entitled matter on its merits. At the hearing, the respondent made motion to dismiss the petition for review in this matter on the following grounds:

That the petitioner failed to meet the personal appearance requirements of s. 71.12(3), Wis. Stats., and ss. TA 1.03 and 1.51(2), Wis. Adm. Code; therefore, this Commission lacks jurisdiction to hear the matters of which the petitioner complains in his petition for review.

In the alternative, the respondent moved that the Commission affirm its action on the petitioner's petition for redetermination based on the record presented.

The petitioner, Christopher E. Pehoski, failed to appear either in person or by a representative. The respondent, Wisconsin

Department of Revenue, appeared by its attorney, Sheree Robertson.

The respondent introduced exhibits, made a motion to dismiss the petition for review on the grounds stated above, made a prima facie case on the merits of the matter, and offered oral arguments in support thereof.

Having considered the pleadings, the record, the motion, the prima facie case presented on the merits, and the arguments of the respondent, this Commission finds as

FINDINGS OF FACT

1. By notice dated July 9, 1984, the respondent made an assessment of estimated income tax against the petitioner in the amount of \$1,461.00.
2. On August 24, 1984, the petitioner filed a petition for redetermination with the respondent.
3. By notice dated February 19, 1985, the respondent denied the petitioner's petition for redetermination.
4. On April 23, 1985, the petitioner filed with this Commission a petition for review of respondent's denial.
5. The respondent has established a "prima facie" case. Assessments or adjustments made by the respondent are presumptively correct. The petitioner did not appear at the hearing held on this matter to rebut the presumptive correctness of the respondent's action.
6. Section 71.12(3), Wis. Stats., contains the following:
"No person against whom an assessment of income tax has been made shall be allowed in any action, either as plaintiff or defendant or in any other proceeding to question such assessment unless the requirements of sub(1) shall first have been complied with, and

unless such person shall have made full disclosure under oath at the hearing before the tax appeals commission of any and all income received by him. The requirements of this subsection may be waived by the department of revenue."

7. The respondent has established a "prima facie" case which the petitioner has not rebutted.

8. The respondent has shown good cause for the granting of its alternative motion that its action in estimating petitioner's income be affirmed.

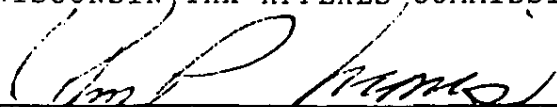
Therefore,

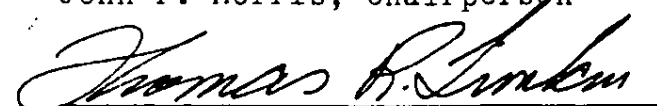
IT IS ORDERED

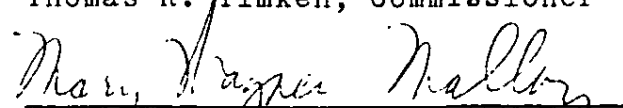
That the respondent's action on petitioner's petition for redetermination be and the same is hereby affirmed.

Dated at Madison, Wisconsin, this 31st day of March, 1986.

WISCONSIN TAX APPEALS COMMISSION


John P. Morris, Chairperson


Thomas R. Timken, Commissioner


Mary Wagner Malloy, Commissioner

cc: Petitioner
Respondent

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"