

UPHOFF JACQUELINE I11280 061485 TAC

February

STATE OF WISCONSIN
TAX APPEALS COMMISSION

STATE OF WISCONSIN
DEPARTMENT OF REVENUE
RECEIVED
JUN 17 1985
LEGAL DIVISION

JACQUELINE J. UPHOFF	:	
2063 West Ridge Road	:	
Cottage Grove, WI 53527	:	DOCKET NO. I-11280
	:	
Petitioner,	:	RULING AND ORDER ON
	:	
vs.	:	MOTION TO DISMISS, FOR
	:	
WISCONSIN DEPARTMENT OF REVENUE	:	JUDGMENT ON THE PLEADINGS
P.O. Box 8933	:	
Madison, WI 53708	:	OR FOR SUMMARY JUDGMENT
	:	
Respondent.	:	

Pursuant to this Commission's notice, this Commission convened in Room 611A, GEF-2 Building, 101 S. Webster Street, Madison, Wisconsin, at 9:00 a.m., on June 12, 1985, for the purpose of hearing the respondent's motion for an order dismissing the petition for review in the above-entitled matter on the following grounds:

That the petitioner failed to file a proper petition for review within 60 days after receipt of the respondent's notice of denial of the petition for redetermination as required by s. 73.01 (5)(a), Stats., and therefore the State of Wisconsin Tax Appeals Commission lacks jurisdiction to review the alleged grievances of the petitioner.

In addition, the respondent's motion moved for judgment on the pleadings or, in the alternative, for summary judgment on the following grounds:

A. The petition for review fails to state a claim upon which relief can be granted by the Commission;

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 s. 802.06(3), or, in the alternative, pursuant to s. 802.08, Stats.

The petitioner, Jacqueline J. Uphoff, failed to appear either in person or by representative. The respondent, Wisconsin Department of Revenue, appeared by its attorney. Stephen E. Zwicky, who introduced exhibits and then moved for dismissal or for judgment on the pleadings or summary judgment on the grounds stated above. The respondent made an oral argument in support of its motion on all grounds.

Having considered the record herein, the respondent's motion and alternative motion, and the oral argument of the respondent thereon, this Commission hereby finds and decides as follows:

1. By notice dated April 2, 1984, the respondent made an estimated assessment of income tax against the petitioner in the amount of \$9,280, based upon petitioner's failure to file 1979, 1980, or 1981 Wisconsin income tax returns.

2. The petitioner was a person required to file 1979, 1980 and 1981 Wisconsin income tax returns.

3. On July 19, 1984, the petitioner filed a petition for redetermination with the respondent.

4. By notice dated January 9, 1985, respondent issued to the petitioner, by certified mail, notice of denial of the petition for redetermination.

5. On April 4, 1985, the petitioner filed a petition for review with this Commission, which contains the following:

THEREFORE, I hereby stand upon my Constitutional and Inalienable God-Given Rights, Guarantees, and Privileges and demand that the Wisconsin Department of Revenue cease and desist from this flagrant harrasement and terrorism of a Sovereign Citizen of Wisconsin and of the United States. If it does not cease I demand a trial in an Article III Court of competent jurisdiction, not an Administrative Tax Court; by Common Law Jury, wherein the Jury decides the Law and the Fact, to determine whether any tax liability exists for the years 1978, 1979, 1980, 1981 and 1982. I further ask the Tax Appeals Commission to reverse the denial issued by the Wisconsin Department of Revenue on January 9, 1985 and grant Petitioner relief from the assessment.

6. Petitioner has failed to file proper Wisconsin income tax returns with respondent for the years 1979, 1980 and 1981.

7. Respondent properly assessed petitioner for the years 1979, 1980 and 1981 by estimating her income for such years.

8. Petitioner failed to appear at the hearing before this Commission and present any evidence to overcome the presumption of correctness inherent in respondent's estimated assessment.

9. Respondent has shown good and sufficient cause for the granting of its alternative 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 estimated assessment as a matter of law pursuant to s. 802.06(3), Stats., or in the alternative, s. 802.08, Stats.

AUTHORITY:

Daniel T. Betow v. Wisconsin Department of Revenue, Wisconsin Tax Appeals Commission Docket No. I-8737, CCH Wisconsin State Tax Reporter, New Matters (Part II), 1979-82, para. 202-032 (June 10, 1982), affirmed Rock County Circuit Court, Branch 5, Case No. 82-CV-311 (January 14, 1983), affirmed Court of Appeals, case No. 83-264 (unpublished, November 22, 1983).

Paul W. and Yvonne D. Christian v. Wisconsin Department of Revenue, Circuit Court for Marathon County, Branch IV, Case No. 82-CV-1208 (May 4, 1984).

Donald G. Tracy and Shirley Tracy v. Wisconsin
Department of Revenue, Wisconsin Tax Appeals Commission
Docket Nos. I-10384 and I-10385, March 26, 1984,
affirmed Rock County Circuit Court, Branch I, Case No.
84-CV-294, November 30, 1984.

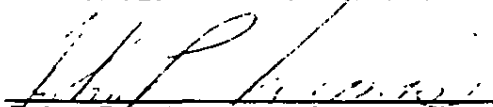
Therefore,

IT IS ORDERED

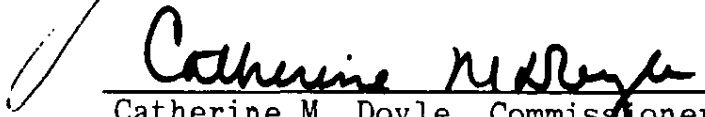
That respondent's alternative motion for summary judgment
is hereby granted, and summary judgment for the respondent is
entered accordingly.

Dated at Madison, Wisconsin, this 14th day of June, 1985.

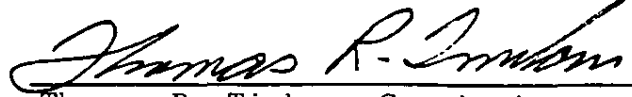
WISCONSIN TAX APPEALS COMMISSION



John P. Morris, Chairman



Catherine M. Doyle, Commissioner



Thomas R. Timken, Commissioner

cc: Petitioner
respondent

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"