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STATE OF WISCONSIN
DEPARTMENT OF REVENUE

JUL 16 1992

STATE OF WISCONSIN

TAX APPEALS COMMISSION

RECEIVED
LEGAL DIVISION

THEODORE C. ARGIRIS
417 W. Forest Ave.
Whitewater, WI 53190

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Petitioner,

DOCKET NO. 92-W-77

vs.

RULING AND ORDER

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

*
*

ON MOTION TO DISMISS
PETITION FOR REVIEW

Respondent.

*

Pursuant to notice, this Commission convened in its Hearing Room, Suite 501, 217 S. Hamilton Street, Madison, Wisconsin, at 11:00 a.m., on July 9, 1992, for the purpose of hearing the respondent's motion to dismiss the petition for review in this matter on the following grounds:

That the petitioner died on May 16, 1992; that respondent has been informed that there is no personal representative for petitioner and that no one will represent petitioner in this matter; and that petitioner, while still living, failed to respond to respondent's discovery requests.

The petitioner, Theodore C. Argiris, failed to appear by personal representative. The respondent, Wisconsin Department of Revenue, appeared by its attorney, Linda Mintener.

The respondent made motion to dismiss the petition for

review on the grounds stated above, offered 20 exhibits which were received into the record, and presented oral argument in support of the motion.

Having considered the pleadings, the record, the motion and the argument of the respondent thereon, this Commission finds as

FINDINGS OF FACT

1. On March 13, 1992, petitioner filed with the Commission a timely petition for review of respondent's January 14, 1992 denial of his petition for redetermination of an assessment of withholding tax penalty in the amount of \$87,122.28.

2. On March 24, 1992, respondent filed its answer to petitioner's petition for review with the Commission.

3. On April 8, 1992, respondent sent to petitioner by certified mail, return receipt requested, its first request for admissions, interrogatories and production of documents. The certified mail was signed for on petitioner's behalf on April 9, 1992.

4. On May 1, 1992, respondent received a letter from petitioner stating that he would be out of the state of Wisconsin until the Memorial Day weekend and that no one else could attend to the discovery requests because of his personal situation.

5. By letter dated May 4, 1992, respondent granted petitioner an extension to respond to respondent's discovery requests until June 1, 1992.

6. On May 27, 1992, respondent's counsel received a

telephone call from Lea Argiris, the petitioner's wife, stating that petitioner had died suddenly on May 16, 1992 in Illinois, where he was living at the time. Mrs. Argiris agreed to make a decision by June 15, 1992 as to whether she or anyone else would or could represent the petitioner's interest in this matter.

7. On June 22, 1992, respondent received a letter from Mrs. Argiris stating that: "Theodore C. Argiris had no estate and further, based on my discussion with the attorney who was representing Theodore in a tax matter with the Internal Revenue Service, there will be no representation in this matter."

8. Pursuant to § 804.11(b), Stats., each of the matters set forth in respondent's requests for admissions have now been admitted, due to the failure of petitioner or anyone on his behalf to respond to the requests for admission served upon petitioner by respondent.

9. The respondent has shown good cause for the granting of its motion.

Therefore,

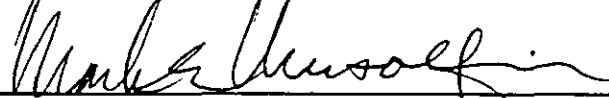
IT IS ORDERED

That the petition for review in the above-entitled matter be and the same is hereby dismissed.

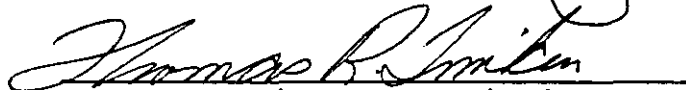
Dated at Madison, Wisconsin, this 15th day of July,

1992.

WISCONSIN TAX APPEALS COMMISSION



Mark E. Musolf, Chairperson



Thomas R. Timken, Commissioner



Douglass H. Bartley, Commissioner

pc: Petitioner
Respondent

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"