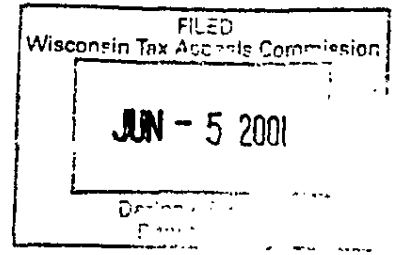


GARRISON BARRY SUSAN 991182 060501 TAC

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**STATE OF WISCONSIN
TAX APPEALS COMMISSION**

BARRY AND SUSAN GARRISON
9445 N. Fairway Circle
Milwaukee, WI 53217,

DOCKET NO. 99-I-182

Petitioners,

vs.

RULING AND ORDER

WISCONSIN DEPARTMENT OF REVENUE
P.O. Box 8907
Madison, WI 53708,

Respondent.



DON M. MILLIS, COMMISSIONER:

This matter comes before the Commission on its own motion to dismiss the petition for review for failure to prosecute pursuant to section 805.03 of the Statutes. Petitioners represent themselves. Respondent is represented by Attorney Sheree Robertson.

Petitioners did not file Wisconsin income tax returns for 1993 and 1994. Under the date of October 30, 1995, respondent issued estimated income tax assessments against petitioners for 1993 and 1994. Petitioners filed a timely petition for redetermination that was denied by respondent. Petitioners filed a timely petition for review with the Commission on October 4, 1999.

From December 7, 1999 through December 6, 2000, the Commission held 4 scheduling conferences. At each conference, petitioner Barry Garrison indicated petitioners' plan to file Wisconsin income tax returns for 1993 and 1994. In fact, following a scheduling conference on June 13, 2000, the Commission ordered petitioners to file Wisconsin income tax returns for 1993 and 1994 by November 17, 2000. Petitioners never filed returns for 1993 and 1994.

On December 6, 2000, the Commission established a mandatory deadline for each party to exchange exhibits and a list of witnesses (May 18, 2001), a date for a telephone pretrial conference (May 30, 2001), and a date for trial (June 12, 2001). Petitioners failed to file any exhibits or a witness list and failed to appear at the telephone pretrial conference. Moreover, petitioners have failed to subsequently contact the Commission to indicate why they failed to appear at the pretrial mediation conference or failed to make the mandated filings.

Petitioners concede that they possess within their home the documentation that would allow them to complete the income tax returns at issue. However, petitioners have claimed, without documentation, to suffer from various physical ailments that have prevented them from gathering this documentation and preparing the returns.

Even if petitioners documented their claimed physical ailments, petitioners have ignored numerous orders of the Commission and have simply failed to prosecute their appeal in the manner ordered by the Commission.

Therefore, the Commission dismisses the petition for review and cancels the trial that had been set for June 12, 2001, because petitioners have failed to prosecute their appeal before the Commission in any way.

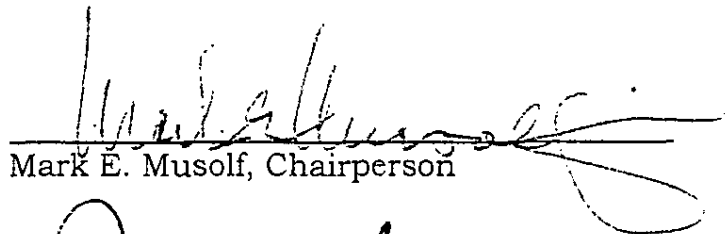
Petitioners should note that they may still file income tax returns for 1993 and 1994 with respondent, even after respondent's assessment has become final and conclusive. Respondent may, in its sole discretion, accept complete, signed tax returns for these years and may cancel the assessment at issue.

ORDER

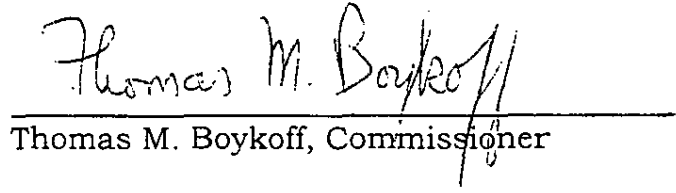
The petition for review is dismissed.

Dated at Madison, Wisconsin, this 5th day of June, 2001.

WISCONSIN TAX APPEALS COMMISSION


Mark E. Musolf, Chairperson


Don M. Millis, Commissioner


Thomas M. Boykoff, Commissioner

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"

WISCONSIN TAX APPEALS COMMISSION

NOTICE OF APPEAL INFORMATION

NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW,
THE TIMES ALLOWED FOR EACH AND THE IDENTIFICATION
OF THE PARTY TO BE NAMED AS RESPONDENT

The following notice is served on you as part of the Commission's decision rendered:

Any party has a right to petition for a rehearing of this decision within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences the day after personal service or mailing of this decision. (Decisions of the Tax Appeals Commission are mailed the day they are dated. In the case of an oral decision, personal service is the oral pronouncement of the decision at the hearing.) The petition for rehearing should be filed with the Wisconsin Tax Appeals Commission. Nevertheless, an appeal can be taken directly to circuit court through a petition for judicial review. It is not necessary to petition for a rehearing.

Any party has a right to petition for a judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes. **The petition must be filed in circuit court and served upon the Wisconsin Tax Appeals Commission and the Department of Revenue** within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of law of any petition for rehearing. (Decisions of the Tax Appeals Commission are mailed the day they are dated. In the case of an oral decision, personal service is the oral pronouncement of the decision at the hearing.) **The petition for judicial review should name the Department of Revenue as respondent.**

This notice is part of the decision and incorporated therein.

TA-22(R-5/93)