

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

GUNDERSON RAYMOND 94S280 022895 TAC

Richard C. Thompson

STATE OF WISCONSIN
TAX APPEALS COMMISSION

FILED
Wisconsin Tax Appeals Commission
FEB 28 1995
Dorlene Skulaszki
Deputy Clerk

* * * * *
RAYMOND GUNDERSON
P.O. Box 310
Osseo, Wisconsin 54758

Petitioner,

vs.

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

Respondent.
* * * * *

DOCKET NO. 94-S-280
RULING AND ORDER
DISMISSING PETITION
FOR REVIEW
(Late Filing)

MAR 1995
State of Wisconsin
Department of Revenue
Received
Legal Staff

On September 15, 1994, the respondent, Wisconsin Department of Revenue, by its attorney, Linda M. Mintener, filed with this Commission a motion for an order dismissing the petition for review in the above-entitled matter for the reason 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 sec. 73.01(5)(a), Stats., and therefore, the State of Wisconsin Tax Appeals Commission lacks jurisdiction to review the alleged grievances of the petitioner.

On November 1, 1994, the petitioner, Raymond Gunderson, by his attorney, Richard C. Thompson, filed with this Commission a motion for an order finding that the petitioner's failure to timely file his petition in this matter was due to excusable neglect.

A telephone scheduling conference was held on January 11, 1995, before Commissioner Joseph P. Mettner. The petitioner, Raymond Gunderson, appeared by his attorney, Richard C. Thompson, and the respondent, Wisconsin Department of Revenue, appeared by its attorney, Linda M. Mintener. The parties were ordered to file briefs with this Commission, and that upon completion of the briefing schedule a written Ruling and Order would be issued.

Having considered the pleadings and the briefs of counsel, this Commission finds:

By notice from the Wisconsin Department of Revenue dated January 29, 1993, a personal liability assessment for the sales tax of Gunderson Truck & Auto World was made against the petitioner in the amount of \$53,123.23 including interest.

On March 25, 1994, the petitioner filed a petition for redetermination with the Wisconsin Department of Revenue.

By notice dated June 20, 1994, mailed to petitioner by certified mail, return receipt requested, and received by petitioner on June 24, 1994, the respondent denied the petitioner's petition for redetermination of the assessment.

The petitioner's petition for review of the respondent's action on the petition for redetermination was received in the office of the Wisconsin Tax Appeals Commission on September 1, 1994. The petition for review was sent by certified mail, postmarked August 30, 1994.

The 60-day period provided for in § 73.01(5)(a), Wis. Stats., for filing a proper petition for review with this

Commission expired on August 23, 1994.

The respondent has shown good cause for the granting of its motion. The petitioner's motion is denied.

Under the provisions of § 73.01(5)(a), Wis. Stats., the petitioner failed to file a proper petition for review within 60 days after receipt of the respondent's notice of action on the petitioner's petition for redetermination; therefore, the Wisconsin Tax Appeals Commission lacks jurisdiction to review the alleged grievances of the petitioner.

Therefore,

IT IS ORDERED

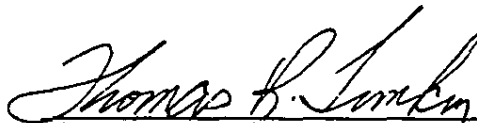
That the petition for review in the above-entitled matter be and the same is hereby dismissed.

Dated at Madison, Wisconsin, this 28th day of February, 1995.

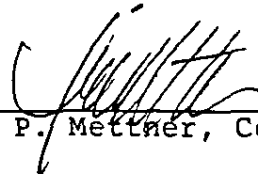
WISCONSIN TAX APPEALS COMMISSION

(Not Participating)

Mark E. Musolf, Chairperson



Thomas R. Timken, Commissioner



Joseph P. Mettner, Commissioner

pc: Petitioner
Representative
Respondent

Attachment: "NOTICE OF APPEAL INFORMATION"