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STATE OF WISCONSIN
TAX APPEALS COMMISSION

STATE OF WISCONSIN
DEPARTMENT OF REVENUE

JUL 10 1992

THOMAS P. AND HELEN L. VOELL
2403 North Harding Blvd.
Wauwatosa, WI 53226-1605

RECEIVED
LEGAL DIVISION

Petitioners,

DOCKET NO. 92-I-46

vs.

RULING AND ORDER

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

ON MOTION TO DISMISS

PETITION FOR REVIEW

Respondent.

(Assessment paid)

Pursuant to its notice, this Commission convened in Room 40, State Office Building, 819 North 6th Street, Milwaukee, Wisconsin, at 1:30 p.m., on June 2, 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 Wisconsin Tax Appeals Commission no longer has jurisdiction to review the alleged grievances of the petitioners since payment of the entire amount of the assessment at issue has already been made by the petitioners and is considered by law an admission of the validity of the assessment and may not be recovered in an appeal or any other action or proceeding pursuant to sec. 71.90, Stats.; is not within the present legislative grant of jurisdiction to the Wisconsin Tax Appeals Commission; and that the Commission does not otherwise have jurisdiction over the subject matter of this appeal.

Helen L.

In the alternative, respondent moved to dismiss the petition for review based on petitioners' failure to appear before the Commission and prosecute their case.

The petitioners, Thomas P. and Helen L. Voell, failed to appear in person or by their representative. The respondent, Wisconsin Department of Revenue, appeared by its attorney, Michael Buchanan.

The respondent made its motion and alternative motion to dismiss the petition for review on the grounds stated above and offered oral argument in support of the motions.

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

FINDINGS OF FACT

1. By notice dated October 17, 1990, the respondent made an assessment of income tax against the petitioners for the years 1986 through 1989 in the amount of \$8,396.94, including interest.

2. By letter dated December 4, 1990, petitioners sent a check to respondent in the amount of \$49.70 to pay in full the assessment for the year 1986. In the December 4, 1990 letter, petitioners also indicated that they were not in agreement with the assessment for the remaining years and that a response in that regard would be forthcoming.

3. By letter dated December 13, 1990, the petitioners' representative filed a petition for redetermination with the respondent in regard to the assessment for the years 1987 through

1989.

4. By notice dated November 27, 1991, mailed to the petitioners by certified mail, return receipt requested, and received by petitioner Helen L. Voell on November 30, 1991, the respondent granted in part and denied in part the petitioners' petition for redetermination, issuing a revised assessment against the petitioners for the years still at issue in the total amount of \$1,089.89, including interest.

5. On January 10, 1992, the petitioners paid to the respondent \$1,089.89, representing the total amount of the revised assessment.

6. On February 17, 1992, the petitioners' representative filed with the Wisconsin Tax Appeals Commission a petition for review relating to the respondent's action on the petition for redetermination.

7. The respondent has shown good cause for the granting of its motion to dismiss on the ground that the assessment has been paid in full.

8. Under the provisions of s. 73.01(4), Wis. Stats., the Wisconsin Tax Appeals Commission lacks jurisdiction to review the alleged grievances of the petitioners.

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 9th day of July,

1992.

WISCONSIN TAX APPEALS COMMISSION



Mark E. Musolf, Chairperson



Thomas R. Timken, Commissioner



Douglass H. Bartley, Commissioner

pc: Petitioners
Representative
Respondent

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"