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STATE OF WISCONSIN
DEPARTMENT OF REVENUE

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STATE OF WISCONSIN
TAX APPEALS COMMISSION

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LEGAL DIVISION

YUHAS GRAPHICS
11021 W. Mitchell Street
West Allis, WI 53214

Petitioner,

vs.

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

Respondent.

*
* DOCKET NO. 90-M-475
* RULING AND ORDER
* ON MOTION TO DISMISS
* PETITION FOR REVIEW
*
*

Pursuant to its notice, this Commission convened in Room 139, Department of Natural Resources Building, 2300 North Dr. Martin Luther King, Jr. Drive, Milwaukee, Wisconsin, at 9:00 a.m., on March 21, 1991, for the purpose of hearing the respondent's motion to dismiss the petition for review in this matter on the following grounds:

That the issues raised in the petition for review are moot, that petitioner lacks any remedy under law, and that there is no statutory authority granting the relief requested by petitioner;

That because petitioner failed to timely apply for classification as a manufacturer, the Tax Appeals Commission lacks jurisdiction to review and determine the grievances stated in the petition for review;

That because petitioner failed to timely comply with statutory reporting requirements, the Tax Appeals Commission lacks jurisdiction to review and determine the grievances stated in the petition for review.

The petitioner, Yugas Graphics, failed to appear either in person or by a representative. The respondent, Wisconsin Department of Revenue, appeared by its attorney, Veronica Folstad.

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

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

FINDINGS OF FACT

1. The personal property items in issue herein were subject to local assessment by the City of West Allis during the tax year 1989.
2. In April 1989, petitioner received a notice of assessment issued by the City of West Allis, valuing petitioner's personal property at \$173,050.
3. Petitioner failed to file an objection to the notice of assessment with the City of West Allis.
4. Petitioner failed to file a request for classification as a manufacturer with the Department of Revenue for the 1989 tax year on or before March 1, 1989.
5. Petitioner failed to file a standard manufacturing

report form, including a list of the amounts and values of any property claimed to be exempt under sec. 70.11(27), Stats., with the Department of Revenue on or before March 1, 1990; further, petitioner failed to request an extension from the Department of Revenue extending the March 1, 1989 due date.

6. On December 19, 1989, petitioner's accountant, David Nagy, telephoned the Department of Revenue requesting information about securing classification of the petitioner as a manufacturer.

7. On December 19, 1989, the Department of Revenue provided a questionnaire form to petitioner regarding classification as a manufacturer, which questionnaire was completed and received in the offices of the Department of Revenue on December 27, 1989, and on February 6, 1990, the Department of Revenue sent a letter to petitioner classifying petitioner as a manufacturer effective for the 1990 tax year.

8. Petitioner's personal property taxes for the 1989 tax year owed to the City of West Allis were delinquent and unpaid until at least March 15, 1990.

9. On November 9, 1990, petitioner filed with the Wisconsin Tax Appeals Commission its petition for review of the determination by the State Board of Assessors.

10. The Wisconsin Property Assessment Manual, at Page 10-5, states, "in order for an establishment to be classified manufacturing for the first time for a specific assessment year, one of the following requirements must have been met: the department must have classified the establishment manufacturing by

March 1 for the specific assessment year; or the establishment must have contacted the department in writing requesting classification on or before March 1st and subsequently have been granted manufacturing classification for that year."

11. Petitioner failed to timely file prior to March 1, 1989 for exemption of the personal property in issue under sec. 70.11(27), Stats., by submitting the standard manufacturing report form and required valuation information to the Department as required by secs. 70.995(4), (7)(d), and (12), Stats.

12. Petitioner having failed to timely apply for classification as a manufacturer and having failed to timely file for exemption of the personal property at issue, this Commission lacks jurisdiction to review and determine the grievances stated in petitioner's petition for review.

13. The respondent has shown good cause and sufficient grounds for the granting of its motion to dismiss.

Therefore,

IT IS ORDERED

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

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Dated at Madison, Wisconsin, this 12th day of April, 1991.

WISCONSIN TAX APPEALS COMMISSION

Thomas R. Timken
Thomas R. Timken, Chairperson

Mary Wagner-Malloy
Mary Wagner-Malloy, Commissioner

Robert C. Juncead
Robert C. Juncead, Commissioner

pc: Petitioner
Representative
Respondent

ATTACHMENT: NOTICE OF APPEAL INFORMATION