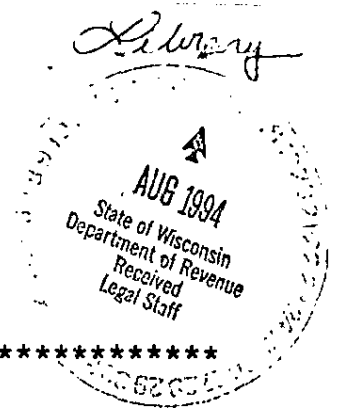


11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

QUINNELL ROBERT J & RUTH I 94I78 081594 TAC



STATE OF WISCONSIN  
TAX APPEALS COMMISSION

\*\*\*\*\*

ROBERT J. AND RUTH I. QUINNELL	*	
5959 Schudy Road		
Wisconsin Rapids, WI 54494	*	DOCKET NO. 94-I-78
	*	
Petitioners,	*	
	*	
vs.	*	ORDER GRANTING
	*	
WISCONSIN DEPARTMENT OF REVENUE	*	RESPONDENT'S MOTION
P.O. Box 8933		
Madison, WI 53708	*	TO DISMISS
	*	
Respondent.	*	

\*\*\*\*\*

On March 17, 1994 the respondent, Wisconsin Department of Revenue, filed a NOTICE OF MOTION AND MOTION TO DISMISS the petition for review filed by the petitioners, Robert J. and Ruth I. Quinnell, along with a supporting affidavit and (14) exhibits.

The petitioners have filed a series of documents best described as "gobbledegook." In essence they claim they are nonresident aliens, exempt from income tax.

Respondent's motion was heard in Madison, Wisconsin, on July 21, 1994. The petitioners appeared by Robert J. Quinnell and Fred Nelson. The respondent appeared by its counsel, Michael J. Buchanan.

The respondent alleges that this commission lacks jurisdiction to review the alleged grievances of the petitioners on the following grounds:

1. The document mailed to the respondent by the petitioners does not constitute a "petition for

RUTH I.

redetermination" because it does not set forth clearly and concisely the specific grievances to the assessment or the parts thereof, including a statement of the relevant facts;

2. That the document filed by the petitioners with the Wisconsin Tax Appeals Commission does not constitute a "petition for review" under § 73.01(5)(b), Stats., nor under § TA 1.15(2)(d), Wis. Adm. Code, because it does not set forth specifically the facts upon which the petitioners rely, together with a statement of the proposition of law involved, and does not contain a clear and concise statement of the petitioners' objections to the decision nor determination appealed from;

3. That the "petition for review" fails to state a claim upon which relief can be granted;

4. That the petitioners have failed to allege in their "petition for review" any justiciable error by the respondent in issuing its assessment against them;

5. That § 71.74(3), Stats., requires the respondent to make an assessment against the petitioners according to its best judgment since they have failed, neglected, or refused to file proper Wisconsin income tax returns for the years 1989, 1990, 1991, and 1992 in the manner and form prescribed by law;

6. That the respondent has also required the petitioners to file a Wisconsin income tax return for

each of the years 1989, 1990, 1991, and 1992 pursuant to the authority granted to it under § 71.03(6)(b), Stats.;

7. That the petitioners have failed to show that they do not have a Wisconsin income tax return filing requirement under § 71.03(2)(a)1., Stats; and

8. That there is no genuine issue as to any material fact, and the respondent is entitled to an order affirming its assessment as a matter of law.

After reviewing the record before it, this commission hereby finds, decides, and rules as follows:

1. That on December 20, 1992, the petitioners filed with the respondent a Form 1 Wisconsin income tax return for the year 1989, along with a copy of their U.S. income tax return for the same year, wherein the petitioners requested a refund of Wisconsin income tax withheld in the amount of \$3,020.88. The 1989 W-2 Wage and Tax Statement for Robert J. Quinnell indicates on its face that he had Wisconsin wages, tips, and other compensation for that year from Consolidated Papers, Inc., in the amount of \$48,545.21, and his 1989 W-2P Form indicates on its face that he received taxable annuity payments from Wood County National Bank and Trust for that year in the amount of \$9,421.97, for a total gross taxable income in the amount of \$57,967.18 for 1989.

2. Petitioners attached to the Wisconsin Form 1 a copy of their U.S. Income Tax Return Form 1040NR that they had filed with the IRS as nonresident aliens. On the Form 1040NR petitioners report gross income from wages, salaries, etc., for the year 1989

in the amount of \$0 and gross interest income in the amount of \$32. Petitioners then transferred only that \$32 amount to line 1 of their Wisconsin Form 1.

3. That on or about December 30, 1992, the petitioners filed with the respondent a Form 1 Wisconsin income tax return for the year 1990, including a copy of the U.S. income tax return they filed with the IRS for that year, wherein the petitioners requested a refund of Wisconsin income tax withheld in the amount of \$3,718.79. The 1990 W-2 Wage and Tax Statement that Robert J. Quinnell received from Consolidated Papers., Inc., indicates on its face Wisconsin wages, tips, etc., in the amount of \$51,005.40 and Wisconsin state income tax withheld in the amount of \$3,193.79 for that year.

4. Petitioners attached to the Wisconsin Form 1 a copy of their Federal Form 1040NR that they filed with the IRS as nonresident aliens. On the Form 1040NR petitioners reported gross income from wages, salaries, etc., for the year 1990 in the amount of \$0 and gross interest income in the amount of \$16. Petitioners then transferred only that \$16 amount to line 1 of the Wisconsin Form 1.

5. On or about December 30, 1992, the petitioners filed with the respondent a Form 1 Wisconsin income tax return for the year 1991, along with a copy of their U.S. income tax return for that year, wherein the petitioners requested a refund of Wisconsin income tax withheld in the amount of \$4,213.73. The W-2 Wage and Tax Statement that Robert J. Quinnell received from Consolidated

Papers., Inc., indicates on its face Wisconsin wages, tips, etc., in the amount of \$65,059.65 and Wisconsin income tax withheld in the amount of \$4,167.73.

6. Petitioners attached to the Wisconsin Form 1 a copy of their Federal Form 1040NR that they filed with the IRS as nonresident aliens. On the Form 1040NR petitioners reported gross income from wages, salaries, etc., for the year 1991 in the amount of \$0. Petitioners then transferred that amount to line 1 of the Wisconsin Form 1.

7. That on or about February 4, 1993, the petitioners filed with the respondent a Form 1 Wisconsin income tax return for the year 1992, along with a copy of the U.S. income tax return they filed with the IRS, wherein the petitioners requested a refund of Wisconsin income tax withheld in the amount of \$2,779.54.

8. A copy of the W-2 Wage and Tax Statement for Robert J. Quinnell indicates on its face Wisconsin wages, tips, etc., he received from Consolidated Papers, Inc., for that year in the amount of \$42,379.18, and the 1992 Form 1099-R for Robert J. Quinnell indicates on its face that he received from Hourly Employees' Retirement a distribution from pensions and annuities in the amount of \$5,954.20 in 1992, for a total of gross taxable income in the amount of \$48,333.38 for that year.

9. Petitioners attached to the Wisconsin Form 1 a copy of their Federal Form 1040NR that they filed with the IRS as nonresident aliens. On the Form 1040NR petitioners reported gross income from wages, salaries, etc., for the year 1992 in the amount

of \$0. Petitioners then transferred that amount to line 1 of their Wisconsin Form 1.

10. By letter dated March 30, 1993, the respondent informed the petitioners that their claims for refund for the years 1989, 1990, 1991, and 1992 were denied, and that their Wisconsin income tax returns that they had filed for each of those years did not constitute proper Wisconsin income tax returns. Said letter also required the petitioners to file proper Wisconsin income tax returns for each of those years pursuant to § 71.03(6)(b), Stats.

11. On May 17, 1993, the respondent issued an estimated income tax assessment against the petitioners for the years 1989, 1990, 1991, and 1992 in the total amount of \$17,052.70. Included with the estimated assessment was a supporting schedule wherein the respondent also informed the petitioners that the Wisconsin income tax returns that they had submitted for those years were incomplete because they did not contain sufficient information for the respondent to make a determination of the correct tax liability, and, therefore, the respondent was denying the petitioners' claims for refund for each of those years and issuing an estimated assessment based on its best judgment.

12. On or about July 15, 1993, the respondent received a communication from the petitioners which it treated as a petition for redetermination of its estimated assessment.

13. By letter dated November 19, 1993, the respondent again requested the petitioners to file completed 1989, 1990, 1991, and 1992 Wisconsin income tax returns.

14. By notice of action letter dated December 27, 1993, respondent denied the petitioners' petition for redetermination.

15. On January 21, 1994, the petitioners appealed that action to this commission.

16. Petitioners were residents of Wisconsin during the years involved (1989-1992), received wages and other compensation, and were required to file complete Wisconsin income tax returns for said years and to pay income taxes thereon. The respondent acted properly in rejecting the incomplete and incorrect returns filed and in estimating the petitioners' income pursuant to the provisions of Chapter 71 of the Wisconsin Statutes.

17. The language contained in the recent U.S. Tax Court case of John W. and Doris J. Minovich v. Commissioner, CCH Dec. 49,645(M) (1994) is relevant to this case and Wisconsin tax law:

"He has repeatedly made frivolous arguments hoping that he will find some semantic technicality that will render him exempt from Federal income tax, which applies generally to all U.S. citizens and residents. His unintelligible and groundless arguments are no more than stale tax protester contentions long dismissed by this Court and other courts which have heard them. *Lonsdale v. United States* [90-2 USTC ¶50,581], 919 F.2d 1440, 1448 (10th Cir. 1990); *Abrams v. Commissioner* [Dec. 41,031], 82 T.C. 403, 406-407 (1984); *Rowlee v. Commissioner* [Dec. 40,228], 80 T.C. 1111 (1983). We see no need to waste our time by addressing each of petitioner's groundless contentions."

18. The respondent has shown good and sufficient grounds for the granting of its motion. There is no genuine issue as to any material facts, and the respondent is entitled to an order affirming its assessment as a matter of law.



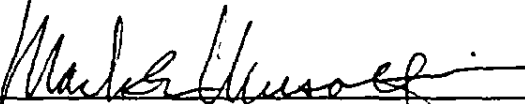
Therefore,


**IT IS HEREBY ORDERED**

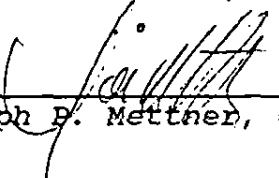
That the respondent's action in denying petitioners' petition for redetermination is hereby affirmed.

Dated at Madison, Wisconsin, this 15th day of August, 1994.

**WISCONSIN TAX APPEALS COMMISSION**

  
\_\_\_\_\_  
Mark E. Musolf, Chairperson

  
\_\_\_\_\_  
Thomas R. Timken, Commissioner

  
\_\_\_\_\_  
Joseph P. Mettner, Commissioner

ATTACHMENT:  
"Notice of Appeal Information"