

STATE OF WISCONSIN  
TAX APPEALS COMMISSION

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RYAN THOMAS BECHARD,

DOCKET NO. 20-J-175

Petitioner,

v.

WISCONSIN DEPARTMENT OF REVENUE,

Respondent.

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RULING AND ORDER

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DAVID L. COON, COMMISSIONER:

This case comes before the Commission for decision on Respondent's Motion to Dismiss. Petitioner, Ryan Thomas Bechard, of Mondovi, Wisconsin, appears *pro se* in this matter. The Respondent, the Wisconsin Department of Revenue ("the Department"), is represented by Attorney Kelly A. Altschul. The Department filed a brief in support of its Motion. Petitioner failed to respond to the Motion to Dismiss.

The Commission finds that Petitioner fails to state a claim upon which relief may be granted and dismisses his Petition for Review.

APPLICABLE LAW

Wis. Stat. § 227.41(2): Petitions for declaratory rulings shall conform to the following requirements:

(a) The petition shall be in writing and its caption shall include the name of the agency and a reference to the nature of the petition.

(b) The petition shall contain a reference to the rule or statute with respect to which the declaratory ruling is requested, a concise statement of facts describing the situation as to which the declaratory ruling is requested, the reasons for the requested ruling, and the names and addresses of persons other than the petitioner, if any, upon whom it is sought to make the declaratory ruling binding.

(c) The petition shall be signed by one or more persons, with each signer's address set forth opposite the signer's name, and shall be verified by at least one of the signers. If a person signs on behalf of a corporation, limited liability company or association, that fact also shall be indicated opposite that person's name.

Wis. Stat. § 227.41(5)(a): The department of revenue shall, on petition by any interested person, or any group or association of interested persons, issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforced by it. The department of revenue may issue a declaratory ruling on the facts contained in the petition. If the department of revenue does not deny the petition or issue a declaratory ruling on the facts contained in the petition, the department of revenue shall hold a hearing, as provided under s. 227.44, and shall afford all interested parties an opportunity to participate in the hearing. A declaratory ruling shall bind the department and all parties to the proceedings on the statement of facts contained in the ruling, unless it is altered or set aside by the tax appeals commission or a court or the applicable rule or statute is repealed or materially amended. A ruling, including the denial of the petition, shall be subject to review by the tax appeals commission as provided in ch. 73.

Wis. Stat. § 227.41(5)(b): A petition under par. (a) shall conform to the requirements under sub. (2) and be filed with the secretary of revenue.

## ANALYSIS

A petition for declaratory ruling filed with the Department "shall conform to the requirements under sub. 2 [Wis. Stat. § 227.41(2)]." Wis. Stat. § 227.41(5)(b). A valid petition must 1) be in writing with the caption including the name of the agency and a

reference to the nature of the petition; 2) contain a reference to the rule or statute with respect to which the declaratory ruling is requested, a concise statement of facts describing the situation as to which the declaratory ruling is requested, the reasons for the requested ruling, and the names and addresses of persons other than the petitioner, if any, upon whom it is sought to make the declaratory ruling binding; and, 3) be signed by one or more persons, with each signer's address set forth opposite the signer's name, and shall be verified by at least one of the signers. Wis. Stat. § 227.41(2).

In an email to Petitioner, the Department rejected his filing as being invalid for lack of compliance with Wis. Stat. § 227.41(2). The Department did not address the merits of the request. The Department did not issue any declaratory ruling and did not deny a request for a declaratory ruling, as the Department did not consider a valid request to have been made in the first place.

Although the Tax Appeals Commission is not charged with evaluating the sufficiency of petitions to the Department requesting declaratory rulings, we agree that Petitioner's request for a declaratory ruling was fatally deficient. He failed to reference the "rule or statute" related to the requested ruling and failed to provide a "concise" statement of facts. Wis. Stat. § 227.41(2)(b). Petitioner's filing with the Department is neither concise nor even coherent. He failed to cite to any Wisconsin statute or rule upon which the Department may issue a determination. Petitioner requested actions to be taken against parties outside the purview of the Department (i.e. the Social Security Administration) and sought relief that would appear to be more appropriate for an action

before a circuit court, rather than for a declaratory ruling on a specific issue within the authority of the Department.<sup>1</sup>

Petitioner also failed to provide his address on the request that he filed with the Department. The statute is mandatory as to this requirement. Wis. Stat. § 227.41(2)(c).

Based upon this, we agree that the Department was correct to reject Petitioner's filing for failure to meet the mandatory requirements of the declaratory ruling statute. Having determined that the filing was insufficient, the Department did not issue a declaratory ruling or deny the request for declaratory ruling, as there was never a valid request, conforming to statute, filed.

The Commission reviews appeals from declaratory ruling issued by the Department, including denials of such a request. Wis. Stat. § 227.41(5)(a). As the Department did not issue a declaratory ruling and did not deny a valid request for such a ruling, there is nothing for the Commission to review.

Petitioner is free to amend his filing with the Department or file a new request with the Department that conforms to the requirements of the statute. Until a proper request is filed with the Department triggering its obligation to act to issue a

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<sup>1</sup> The Department also argues that Petitioner failed to comply with Wis. Stat. § 227.41(2)(a) that requires a "caption including...a reference to the nature of the petition." His caption called it a petition for "Declaratory Judgment" rather than for a "Declaratory Ruling," along with some other problems alleged by the Department. While we might not normally hold a *pro se* petitioner to a high technical standard, the body of his filing does appear to be more in the nature of a request for a judgment from a circuit court, or even a federal district court, including seeking various parties, outside of the Department's authority, to be enjoined from certain actions. He likely fails to comply with this statutory requirement also.

declaratory ruling or to deny the request, from which the Petitioner may appeal, there is nothing before the Commission upon which relief may be granted.<sup>2</sup>

### CONCLUSION OF LAW

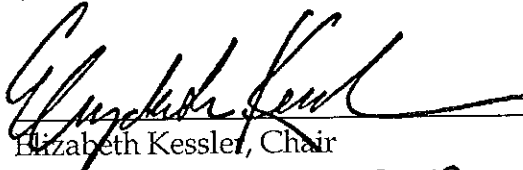
The Petitioner's Petition for Review fails to state a claim upon which relief may be granted by the Commission.

### ORDER

The Department's Motion to Dismiss is hereby granted, and the Petition for Review is dismissed.

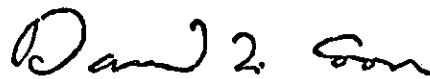
Dated in Madison, Wisconsin, this 2nd day of December, 2020.

### WISCONSIN TAX APPEALS COMMISSION

  
Elizabeth Kessler, Chair



Lorna Hemp Boll, Commissioner



David L. Coon, Commissioner

ATTACHMENT: NOTICE OF APPEAL INFORMATION

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<sup>2</sup> The Department also argues in the alternative that, even if Petitioner had stated a claim upon which relief could be granted, his Petition for Review was filed untimely and, therefore, the Commission lacks jurisdiction. As we have dismissed the matter on other grounds, we do not need to address the alternative request for dismissal.

WISCONSIN TAX APPEALS COMMISSION  
5005 University Avenue - Suite 110  
Madison, Wisconsin 53705

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

A taxpayer has two options after receiving a Commission final decision:

*Option 1: PETITION FOR REHEARING BEFORE THE COMMISSION*

The taxpayer has a right to petition for a rehearing of a final decision within 20 days of the service of this decision, as provided in Wis. Stat. § 227.49. The 20-day period commences the day after personal service on the taxpayer or on the date the Commission issued its original decision to the taxpayer. The petition for rehearing should be filed with the Tax Appeals Commission and served upon the other party (which usually is the Department of Revenue). The Petition for Rehearing can be served either in-person, by USPS, or by courier; however, the filing must arrive at the Commission within the 20-day timeframe of the order to be accepted. Alternately, the taxpayer can appeal this decision directly to circuit court through the filing of a petition for judicial review. It is not necessary to petition for a rehearing first.

AND/OR

*Option 2: PETITION FOR JUDICIAL REVIEW*

Wis. Stat. § 227.53 provides for judicial review of a final decision. Several points about starting a case:

1. The petition must be filed in the appropriate county circuit court and served upon the Tax Appeal Commission and the other party (which usually is the Department of Revenue) either in-person, by certified mail, or by courier, within 30 days of this decision if there has been no petition for rehearing or, within 30 days of service of the order that decides a timely petition for rehearing.
2. If a party files a late petition for rehearing, the 30-day period for judicial review starts on the date the Commission issued its original decision to the taxpayer.
3. The 30-day period starts the day after personal service, or the day we mail the decision.
4. The petition for judicial review should name the other party (which is usually the Department of Revenue) as the Respondent, but not the Commission, which is not a party.

For more information about the other requirements for commencing an appeal to the circuit court, you may wish to contact the clerk of the appropriate circuit court or, the Wisconsin Statutes. The website for the courts is <https://wicourts.gov>.

This notice is part of the decision and incorporated therein.