

STATE OF WISCONSIN
TAX APPEALS COMMISSION

PLAZA PUBLICATIONS, INC.
152 W. Wisconsin Avenue, Suite 634
Milwaukee, WI 53202,

DOCKET NO. 02-S-12

Petitioner,

vs.

RULING AND ORDER

WISCONSIN DEPARTMENT OF REVENUE
P.O. Box 8907
Madison, WI 53708 ,

Respondent.

THOMAS M. BOYKOFF, COMMISSIONER:

This matter comes before the Commission on petitioner's April 16, 2003 motion for attorney fees and costs under Wis. Stat. § 227.485.

The motion was filed after the Commission issued: (1) a January 31, 2003 Decision and Order in the above-captioned case, which modified and affirmed the Department's action on petitioner's petition for redetermination; (2) a February 14, 2003 Correction Order correcting certain errors in the decision; and (3) a March 17, 2003 Order denying the Department's petition for rehearing.

On April 24, 2003, the Commission issued an Order On Motion For Attorney Fees, stating that the Commission would refrain from acting on the motion until so directed by the Dane County Circuit Court or until the matter falls within the jurisdiction of the Commission.

On October 6, 2003, the Dane County Circuit Court issued a Judgment which reversed that part of the Commission's January 31, 2003 decision which had modified the Department's petition for redetermination. The action of the Circuit Court resulted in the Department's action on the petition for redetermination being affirmed in full. Petitioner has not appealed the Circuit Court's Judgment, and the time for appealing the Judgment has expired.

Under Wis. Stat. § 227.485, attorney fees and costs may be awarded to a party litigating against state government under specified circumstances. One requirement is that the party must prevail. Wis. Stat. §§ 227.485(3), (4), and (5). Because of the October 6, 2003 Circuit Court Judgment, petitioner did *not* prevail.¹

IT IS ORDERED

That petitioner's motion for attorney fees and costs is denied.

Dated at Madison, Wisconsin, this 6th day of April, 2004.

WISCONSIN TAX APPEALS COMMISSION

Don M. Millis, Commission Chairperson

Thomas M. Boykoff, Commissioner

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"

¹ Since this motion is denied on the above basis, the Commission does not review other statutory provisions which must be met for an award to be granted.