

STATE OF WISCONSIN
TAX APPEALS COMMISSION

RADS PARTNERSHIP
VIA CRESTA, L.P.
LAUGHING COW, LP
WESTMAR, LTD,

DOCKET NOS. 19-W-281
19-W-282
19-W-283
19-W-284

Petitioners,

v.

WISCONSIN DEPARTMENT OF REVENUE,

Respondent.

FINGER LIVING TRUST DTD OCT. 4, 1988,
C/O RUDY NODAR,

DOCKET NO. 19-I-243

Petitioner,

v.

WISCONSIN DEPARTMENT OF REVENUE,

RULING & ORDER

KENNETH P. ADLER, COMMISSIONER:

This case comes before the Commission for decision on competing Motions for Summary Judgment. The Petitioners, Laughing Cow, LP; RADS Partnership; Via Cresta, L.P.; Westmar, Ltd; and Finger Living Trust DTD Oct. 4, 1988 (collectively "the Petitioners"), by their attorneys Reinhart Boerner Van Dueren S.C. The Respondent, the Wisconsin Department of Revenue ("the Department"), is represented by Attorney Mark

S. Zimmer and Jared M. Boucher. Both parties have filed with the Commission briefs and documents in support of their respective positions. For the reasons stated below, we find for the Respondent.

FACTS

1. Laughing Cow, LP ("Laughing Cow") is a Delaware limited partnership with its principal location at Los Angeles, California. During the Audit Period, all of the partners in Laughing Cow were residents of California, Washington, and Alaska. (Joint Stipulation of Facts ¶ 1.)

2. RADS Partnership ("RADS") is a California general partnership with its principal location at Los Angeles, California. During the Audit Period, all of the partners in RADS were residents of California. (Joint Stipulation of Facts ¶ 2.)

3. Via Cresta, L.P. ("Via Cresta") is a Delaware limited partnership with its principal location at Los Angeles, California. During the Audit Period, all of the partners in Via Cresta were residents of California. (Joint Stipulation of Facts ¶ 3.)

4. Westmar, Ltd. ("Westmar") is a California limited partnership with its principal location at Los Angeles, California. During the Audit Period, all of the partners of Westmar were residents of California. (Joint Stipulation of Facts ¶ 4.)

5. Finger Living Trust DTD Oct. 4, 1988 ("Finger Trust") is a California grantor trust, with its principal location at Los Angeles, California. During the Audit Period, the trust, the trustee, and all of the income beneficiaries of Finger Trust were residents of California. (Joint Stipulation of Facts ¶ 5.)

6. Each of the Petitioners other than Finger Trust is a “pass-through entity” as that term is defined in Wis. Stat. § 71.775(1)(b). (Joint Stipulation of Facts ¶ 6.)

7. Watermark Wisconsin Investors LP (“Watermark”) was a California limited partnership, with its principal offices in California. Watermark invested in Watermark Montclair Wisconsin Hotels LLC (“Montclair”). Montclair invested in real estate in Wisconsin. Montclair owned the real estate from 2006 through 2013, until it ceased operations in 2013. Montclair and Watermark were both “pass-through entities” as that term is defined in Wis. Stat. § 71.775(1)(b). (Joint Stipulation of Facts ¶ 7.)

8. Each of the Petitioners was a limited partner in Watermark in the Audit Period, calendar year 2013. (Joint Stipulation of Facts ¶ 8.)

9. The share of Watermark’s Wisconsin income or loss for each year for each of the Petitioners was as follows:

<u>Tax Year</u>	<u>Type of Income</u>	<u>Via Cresta</u>	<u>Laughing Cow</u>	<u>Westmar</u>	<u>RADS</u>	<u>Finger Trust</u>
2006	Ordinary	-5,446	-2,832	-2,722	-1,634	-1,307
2007	Ordinary	-249,133	-129,549	-124,567	-74,740	-59,792
2008	Ordinary	-205,405	-106,810	-102,703	-61,622	-49,297
2008	Other income	2,000	1,040	1,000	600	480
2009	Ordinary	-224,803	-116,898	-112,401	-67,441	-53,952
2009	Other income	-2,000	-1,040	-1,000	-600	-480
2010	Ordinary	-82,441	-42,868	-41,220	-24,734	-19,786
2011	Ordinary	-102,790	-53,450	-51,396	-30,837	-24,670
2012	Ordinary	-58,434	-30,385	-29,218	-17,530	-14,024
2013	Ordinary	-37,456	-19,477	-18,730	-11,236	-8,989
2013	s. 1231 gain	588,219	305,874	294,110	176,466	141,172

(Joint Stipulation of Facts ¶ 9.)

10. Total losses reported to the Petitioners through 2013 was equal to \$2,560,099. (Joint Stipulation of Facts ¶ 10.)

11. Watermark reported its income and losses on *Wisconsin Form 3 Partnership* returns in each year from 2006 through 2013. (Joint Stipulation of Facts ¶ 11.)

12. Watermark reported each of its partners' (including Petitioners') shares of Wisconsin income and losses on *Wisconsin Form 3K-1 schedules* in each year from 2006 through 2013. (Joint Stipulation of Facts ¶ 12.)

13. Watermark did not file *Form PW-1* for any tax year from 2006 to 2013. Watermark did not pay a withholding tax for any of the Petitioners for any tax year from 2006 to 2013. (Joint Stipulation of Facts ¶ 13.)

14. The Petitioners did not file any Wisconsin income tax returns for years 2006 through 2012. At the request of the Department's Auditor during the course of the audit, the Petitioners filed the following 2013 tax returns:

a) Laughing Cow filed a *Wisconsin Form 3 Partnership* return for the tax year 2013 on or about September 17, 2018. In filing this return, Laughing Cow paid \$1,140. Laughing Cow did not file a *Wisconsin Form PW-1 Pass-through Withholding* return for any year from 2006 through 2013, and paid no Wisconsin pass-through withholding tax for the Audit Period or any other year.

b) RADS filed a *Wisconsin Form 3 Partnership* return for the tax year 2013 on or about August 28, 2018. In filing this return, RADS

paid \$484. RADS did not file a *Wisconsin Form PW-1 Pass-through Withholding* return for any year from 2006 through 2013, and paid no Wisconsin pass-through withholding tax for the Audit Period or any other year.

c) Via Cresta did not file any Wisconsin income tax returns for any years from 2006 through 2013. Via Cresta did not file a *Wisconsin Form PW-1 Pass-through Withholding* return for any year from 2006 through 2013, and paid no Wisconsin pass-through withholding tax for the Audit Period or any other year.

d) Westmar filed a *Wisconsin Form 3 Partnership* return for the tax year 2013 on or about August 31, 2018. In filing this return, Westmar paid \$1,539. Westmar did not file a *Wisconsin Form PW-1 Pass-through Withholding* return for any year from 2006 through 2013, and paid no Wisconsin pass-through withholding tax for the Audit Period or any other year.

e) Finger Trust prepared a 2013 *Wisconsin Form 1NPR* showing no tax due and provided it to the Auditor, but did not file it. Finger Trust did not file any Wisconsin fiduciary income tax returns for any years from 2006 through 2013, and paid no Wisconsin income tax for the Audit Period or any other year. Finger Trust did not file a *Wisconsin Form PW-1 Pass-through Withholding* return for any year

from 2006 through 2013, and paid no Wisconsin pass-through withholding tax for the Audit Period or any other year. (Joint Stipulation of Facts ¶ 14.)

15. All 2013 filings included *Forms 1CNP* on which the tax payment amounts were calculated.¹ (Joint Stipulation of Facts ¶ 15.)

16. The Department conducted audits of the Petitioners for the Audit Period, comprising tax year 2013, and pursuant to those audits issued assessments as follows (collectively, the “Notices of Amount Due”):

- a) Laughing Cow: \$24,277 pass-through withholding tax, plus interest, underpayment interest, penalties, and late filing fees, totaling \$54,886, under Notice of Amount Due dated December 3, 2018.
- b) RADS: \$12,547 pass-through withholding tax, plus interest, underpayment interest, penalties, and late filing fees, totaling \$28,392, under Notice of Amount Due dated December 3, 2018.
- c) Via Cresta: \$42,993 pass-through withholding tax, plus interest, underpayment interest, penalties, and late filing fees,

¹ Form 1CNP is the form for an electing partnership to pay taxes on behalf of its partners. That election was authorized by Wis. Stat. § 71.21(6)(a) (2019–2020), enacted in 2017 Act 368, § 7, effective for taxable years beginning January 1, 2019 (January 1, 2018, for tax-option corporations). Act 368, § 21(1). No such election was available to partnerships for the year 2013, so the Forms 1CNP filed by some of the Petitioners are a nullity and were not authorized by Wisconsin law.

totaling \$90,997, under Notice of Amount Due dated December 3, 2018.

d) Westmar: \$67,939 pass-through withholding tax, plus interest, underpayment interest, penalties, and late filing fees, \$153,513, under Notice of Amount Due dated December 3, 2018.

e) Finger Trust: \$11,399 fiduciary tax, plus interest, penalties, and late filing fees, totaling \$24,287, under Notice of Amount Due dated December 26, 2018. (Joint Stipulation of Facts ¶ 16.)

17. On or about January 31, 2019, the Department timely received Petitions for Redetermination dated January 31, 2019, appealing the Notices of Amount Due. (Joint Stipulation of Facts ¶ 17.)

18. The Department's Resolution Officers handling Petitioners' appeals timely issued a *Notice of Action* for each of the Petitioners. (Joint Stipulation of Facts ¶ 18.)

19. Each of the Petitioners timely filed a **Petition for Review** of the foregoing **Notices of Action** with the Wisconsin Tax Appeals Commission. (Joint Stipulation of Facts ¶ 19.)

20. Petitioners' Petitions for Review were consolidated by verbal order of the Wisconsin Tax Appeals Commission on April 13, 2020. (Joint Stipulation of Facts ¶ 20.)

APPLICABLE LAW

Summary Judgment

A motion for summary judgment will be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Wis. Stat. § 802.08(2). In this case, both parties filed Motions for Summary Judgment along with a Joint Stipulation of Facts. Summary judgment is thus appropriate. *Healthcare Services Group, Inc. v. Wisconsin Dept. of Revenue*, Wis. Tax Rptr. (CCH) ¶ 402-086 (WTAC 2016).

Wisconsin Statutes

Wis. Stat. § 71.125 Imposition of tax.

(1) Except as provided in sub. (2), the tax imposed by this chapter on individuals and the rates under s. 71.06 (1), (1m), (1n), (1p), (1q), and (2) shall apply to the Wisconsin taxable income of estates or trusts, except nuclear decommissioning trust or reserve funds, and that tax shall be paid by the fiduciary. [emphasis added]

Wis. Stat. § 71.775 Withholding from nonresident members of pass-through entities

(1) DEFINITIONS. In this section:

(a) "Nonresident" includes an individual who is not domiciled in this state; a partnership, limited liability company, or corporation whose commercial domicile is outside the state; and an estate or a trust that is a nonresident under s. 71.14 (1) to (3m).

(b) "Pass-through entity" means a partnership, a limited liability company, a tax-option corporation, an estate, or a trust that is treated as a pass-through entity for federal income tax purposes.

Wis. Stat. § 71.775(2)(a)

(2) WITHHOLDING TAX IMPOSED.

(a) For the privilege of doing business in this state or deriving income from property located in this state, a pass-through entity that has Wisconsin income for the taxable year that is allocable to a nonresident partner, member, shareholder, or beneficiary shall pay a withholding tax. The amount of the tax imposed under this subsection to be withheld from the income distributable to each nonresident partner, member, shareholder, or beneficiary is equal to the nonresident partner's, member's, shareholder's, or beneficiary's share of income attributable to this state, multiplied by the following:

1. For an individual, an estate, or a trust, the highest tax rate for a single individual for the taxable year under s. 71.06.
2. For a partnership, a limited liability company, or a corporation, the highest tax rate for the taxable year under s. 71.27.

(b) A pass-through entity that is also a member of another pass-through entity is subject to withholding under this subsection and shall pay the tax based on the share of income that is distributable to each of the entity's nonresident partners, members, shareholders, or beneficiaries.

[emphasis added]

Wis. Stat. § 71.775(3)

(3) EXEMPTIONS

(a) A nonresident partner's, member's, shareholder's, or beneficiary's share of income from the pass-through entity that is attributable to this state shall not be included in determining the withholding under sub. (2) if any of the following applies:

1. The partner, member, shareholder, or beneficiary is exempt from taxation under this chapter. For purposes of this subdivision, the pass-through entity may rely on a written statement from the partner, member, shareholder, or beneficiary claiming to be exempt from taxation under this chapter, if the pass-through entity attaches a copy of the statement to its return for the taxable year and if the statement specifies the name, address, federal employer identification number, and reason for claiming an exemption for each partner, member, shareholder, or beneficiary claiming to be exempt from taxation under this chapter.

2. The partner's, member's, shareholder's, or beneficiary's share of **income** from the pass-through entity that is attributable to this state is less than \$1,000.

[emphasis added]

Wis. Stat. § 71.775(4)(a), (bn), (k):

(4) ADMINISTRATION.

(a) Each pass-through entity that is subject to the withholding under sub. (2) shall file an annual return that indicates the withholding amount paid to the state during the pass-through entity's taxable year. The pass-through entity shall file the return with the department on or before the date on which the pass-through entity is required to file for federal income tax purposes, not including any extension, under the Internal Revenue Code.

...

(bn) If a pass-through entity subject to withholding tax under sub. (2) does not file the return under par. (a) on or before the extension date provided in par. (bm), the pass-through entity is liable for the penalty provided in s. 71.83 (1), in addition to any unpaid tax, interest, and penalty otherwise assessable to a nonresident partner, member, shareholder, or beneficiary on income from the pass-through entity.

...

(k) Any tax withheld under this section shall be held in trust for this state, and a pass-through entity subject to withholding under this section shall be liable to the department for the payment of the tax withheld. No partner, member, shareholder, or beneficiary of a pass-through entity shall have any right of action against the pass-through entity with respect to any amount withheld and paid in compliance with this section.

[emphasis added]

Wis. Stat. § 71.80(25):

(25) Net operating and business loss carry-forward and carry-back.

(a) No offset of Wisconsin income may be made under s. 71.05 (8) (b) 1, 71.26 (4) (a), or 71.45 (4) (a) unless the incurred loss was computed on a return that was filed within 4 years of the unextended due date for filing the original return for the taxable year in which the loss was incurred.

(b) No carry-back of a loss may be allowed under s. 71.05 (8) (b) 1. unless claimed within 4 years of the unextended due date for filing the original return for the taxable year to which the loss is carried back.

ANALYSIS

Pass-through entities are business entities whose organizational structure allows income, loss, deductions, etc. to “pass through” and be taxed at the partner, shareholder, trust beneficiary level. The parties have stipulated that the Petitioners, with the exception of Finger Living Trust, are pass-through entities within the meaning of Wis. Stat. § 71.775(1).

The sole issue before the Commission is whether the Petitioners, who are pass-through entities (pass-through Petitioners), except for Finger Living Trust (trust Petitioner), are liable for pass-through withholding tax, or fiduciary tax in the case of Finger Living Trust, based on income received in 2013. Prior to 2013, with two exceptions, the Petitioners had no Wisconsin income rising to a level that would have been taxed in Wisconsin. In 2013 the Petitioners received income from the ceasing of operations of Watermark Montclair Wisconsin Hotels LLC.

The Pass-Through Petitioners

Pass-through entities, for the privilege of doing business in Wisconsin, are subject to pass-through withholding and required by statute to submit a pass-through withholding form and the appropriate amount of withheld tax, in each year where there is Wisconsin income. Wis. Stat. § 71.775(2)(a) and (4)(a). An exemption to this filing requirement states “[a] nonresident partner's, member's, shareholder's, or beneficiary's share of *income* from the pass-through entity that is attributable to this state shall not be

included in determining the withholding" if "[t]he partner's, member's, shareholder's, or beneficiary's share of *income* from the pass-through entity that is attributable to this state is less than \$1,000." [emphasis added]. Wis. Stat. § 71.775(3)(a)2. Again, the statute only references "income" and not "taxable income".

It is undisputed that the Petitioners did not file a pass-through withholding form for 2013.

The Petitioners argue that they were not required to file the pass-through withholding form or withhold any tax, because there was no *taxable* income. The Petitioners argue that each of the Petitioners could net out substantial previous losses to effectively make the Wisconsin income for 2013 zero. However, in their argument, the Petitioners add superfluous language which changes the meaning of the statute. The statute does not say the withholding form must be filed in years where there is Wisconsin *taxable* income. And it does not state that entities are exempt from filing that form if *taxable* income is less than \$1,000. Adding the word "taxable" changes the meaning of the statute.² That reading of Wis. Stat. § 71.775(2)(a), (3)(a)2 and (4)(a) is rejected by the Commission.

The Petitioners also argue that no specific form need be submitted by a taxpayer, as Wis. Stat. § 71.775(4)(a) requires that each pass-through entity having

² As noted by the Petitioners - it is a fundamental principal of statutory interpretation that the interpretation of the statute should "begin with the language of the statute." *State ex rel. Kalal v. Circuit Court for Dane County*, 2004 WI 58, ¶ 45, 271 Wis. 2d 633, 681 N.W.2d 110. Wisconsin courts have interpreted that to mean that courts should never "read into the statute words the legislature did not see fit to write." *Dawson v. Town of Jackson*, 2011 WI 77, ¶ 42, 336 Wis. 2d 318, 801 N.W.2d 316. Nor should courts "add words to a statute to give it a certain meaning." *State v. Neill*, 2020 WI 15, ¶23, 390 Wis. 2d 248, 938 N.W.2d 521 (quoted source omitted).

Wisconsin income for the taxable year, shall file “an annual return” but does not specify what return is required. However, Wis. Stat. § 71.775(4)(a) states, in relevant part:

Each pass-through entity that is subject to the withholding under sub. (2) shall file an annual return *that indicates the withholding amount paid to the state during the pass-through entity’s taxable year.* [emphasis added]

Finally, the Petitioners reference Wis. Stat. § 71.80(25)(a) and argue the statute does not require “that the loss be computed on a Wisconsin return”, the losses being claimed to offset Wisconsin income “need not be computed on any specific return *and* [the statute] does not require that the returns be filed by the taxpayer claiming the losses.” [Petitioner’s Brief in Opposition to Respondent’s Motion for Summary Judgement at page 7].

Wis. Stat. § 71.80(25) states, in relevant part:

(25) Net operating and business loss carry-forward and carry-back.

(a) No offset of Wisconsin income may be made under s. 71.05 (8) (b) 1, 71.26 (4) (a), or 71.45 (4) (a) unless the incurred loss was computed on a return that was filed within 4 years of the unextended due date for filing the original return for the taxable year in which the loss was incurred. [emphasis added].

As noted by the department, “[i]t is not credible that the legislature would authorize Wisconsin tax benefits to be conferred by tax filings made in some random jurisdiction on behalf of some random entity that Wisconsin knows nothing about, cannot audit, and which the Commission does not have jurisdiction over.” [Department’s Reply Brief, at page 4]. The Commission rejects the Petitioners’ reading of Wis. Stat. § 71.80(25)

as unreasonable and unworkable for the purpose of determining and verifying losses being claimed against Wisconsin income.

Because the Petitioners were pass-through entities that had Wisconsin income during the taxable year 2013 that was allocable to a nonresident partner, member, shareholder or beneficiary, they were required to file a return to calculate their potential withholding liability and pay a withholding tax. The form on which they report that income to pay that tax is the *Wisconsin Form PW-1 Wisconsin Nonresident Income or Franchise Tax Withholding on Pass-Through Entity Income* (Wisconsin Form PW-1). Therefore, the Commission concludes that any return filed which failed to enumerate the withholding amount paid to Wisconsin cannot be the return referenced in Wis. Stat § 71.775(4)(a). Accordingly, Petitioners' arguments about losses having been computed on Federal returns and/or Forms 3K-1s fail.

The pass-through withholding form was required to be filed by Watermark Wisconsin Investors, and the pass-through withholding tax was required to be submitted to the Department of Revenue. When Watermark failed to do these things, the Petitioners were not relieved of their obligation to properly file their Wisconsin tax returns. Wis. Stat. § 71.775(2)(b). Pursuant to Wis Stat § 71.80(25), the returns for tax year 2013 needed to be filed by April 15, 2018 in order to fall within four years of the unextended due date. They were not.

The Petitioners are placing the proverbial cart before the horse. The parties agree the pass-through Petitioners did not timely file the Wisconsin Form PW-1. That form is to be filed unless "[t]he partner's, member's, shareholder's, or beneficiary's share of *income*

from the pass-through entity that is attributable to this state is less than \$1,000.” All parties agree the “income” exceeded \$1,000. (Joint Stipulation of Facts ¶ 9). Therefore, those forms were required to be *filed*. Within the forms the net or taxable income is then calculated to determine whether and in what amount withholding is required.

Because we find that Petitioners were required to file pass-through withholding forms and failed to do so, we do not reach the questions of how they might have accounted for their losses, offset their income, or whether or not any income would have been taxable if they had properly filed the pass-through withholding forms and annual Wisconsin tax returns. This includes the question of whether taxable income, upon which the withholding is based, exceeded \$1,000.

The Trust Petitioner

Wisconsin law imposes a fiduciary tax on the Wisconsin income of trusts. Wis. Stat. 71.125(1). The parties agree that Finger Living Trust had Wisconsin income in 2013 from its interest in Watermark (Joint Stipulation of Facts ¶9). The parties also agree Finger Trust did not file any Wisconsin fiduciary income tax returns for any years from 2006 through 2013 and paid no Wisconsin income tax for the Audit Period or any other year. (Joint Stipulation of Facts ¶ 14.) The trust Petitioner also references Wis. Stat. § 71.80(25) and argues the Finger Living Trust can rely on other returns filed by other entities to document losses which the trust Petitioner seeks to apply against its 2013 Wisconsin income. For the reasons stated above in regard to the pass-through Petitioners, the Commission does not find this argument reasonable or persuasive. The failure by Finger Living Trust to timely file *any* tax return to claim *any* losses generated by Watermark results in the inability to

offset the 2013 income from Watermark against the losses in prior years. Wis Stat § 71.80(25).

CONCLUSIONS OF LAW

1. That pass-through entities, for the privilege of doing business in Wisconsin, are required by statute to file a timely pass-through withholding form, and submit the appropriate amount of withheld tax, in each year where there is Wisconsin income. Wis. Stat. § 71.775(2)(a) and (4)(a).

2. That the failure to submit pass-through withholding forms for tax year 2013 by April 15, 2018 in order to fall within four years of the unextended due date, results in the pass-through Petitioners having to pay pass-through withholding. Wis Stat § 71.80(25).

3. That the assessments imposed by the Department on the pass-through Petitioners are correct.

4. That the trust Petitioner is subject to fiduciary tax when it has Wisconsin income. Wis. Stat. § 71.125(1).

5. That the failure of the trust Petitioner to submit any tax form by April 15, 2018, claiming prior years losses to offset Wisconsin income, in order to fall within four years of the unextended due date, results in the trust Petitioner having to pay a fiduciary tax. Wis Stat § 71.80(25).

6. That the assessment of fiduciary tax imposed by the Department on the trust Petitioner is correct.

ORDER


Based on the foregoing, it is the order of this Commission that the Petitioners' Motion for Summary Judgment is denied, and Respondent's Motion for Summary Judgment is granted as we affirm the assessments.

Dated at Madison, Wisconsin, this 25th day of July, 2022.

WISCONSIN TAX APPEALS COMMISSION


Elizabeth Kessler, Chair


Jessica Roulette, Commissioner


Kenneth Adler, Commissioner

ATTACHMENT: NOTICE OF APPEAL INFORMATION

WISCONSIN TAX APPEALS COMMISSION
101 E Wilson St, 5th Floor
Madison, Wisconsin 53703

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.