

STATE OF WISCONSIN  
TAX APPEALS COMMISSION

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BEST EMBROIDERY, LLC,

DOCKET NOS. 06-M-172  
AND 06-M-173

Petitioner,

vs.

**RULING AND ORDER**

WISCONSIN DEPARTMENT OF REVENUE,

Respondent.

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**DIANE E. NORMAN, COMMISSIONER:**

This matter comes before the Commission on a motion filed by the Wisconsin Department of Revenue (“respondent”) to dismiss the petition for review for lack of jurisdiction. Respondent has filed supporting papers with respect to the motion. Petitioner has failed to respond to the motion. Respondent is represented by Attorney Lisa Ann Gilmore and petitioner appears *pro se*.

Based on the submissions of the parties and the entire record in this matter, the Commission finds, concludes, rules, and orders as follows:

**FACTS**

1. Under the date of June 14, 2004, respondent issued a Notice of Personal Property Assessment valuing petitioner’s personal property<sup>1</sup> in the city of West

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<sup>1</sup> The 2004 personal property assessment values petitioner’s machinery and equipment at \$75,000, furniture and fixtures at \$3,800 and all other at \$800.

Bend, Washington County, in the amount of \$79,600 (the "2004 assessment").  
(Respondent's Exhibit 1)

2. Respondent has no record of any appeal or objection to the 2004 assessment filed by petitioner in 2004. (Affidavit of Patricia Knudtson, secretary to the State Board of Assessors, No. 7)

3. Under the date of June 13, 2005, respondent issued a Notice of Personal Property Assessment valuing petitioner's personal property<sup>2</sup> in the city of West Bend, Washington County, in the amount of \$143,200 (the "2005 assessment").  
(Respondent's Exhibit 2)

4. On February 14, 2006, respondent issued an Objection Acknowledgement receipt of petitioner's 2005 objection form and filing fee that was filed (postmarked) on February 13, 2006. (Respondent's Exhibit 3)

5. On February 15, 2006, respondent issued an Order for Dismissal of petitioner's objection to the 2005 assessment for failure to timely file its objection within 60 days of the issuance of the notice of the personal property assessment. (Respondent's Exhibit 4)

6. On May 17, 2006, petitioner filed a petition for review of the determination by the State Board of Assessors for personal property assessment with the Commission appealing the 2004 and 2005 assessments.

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<sup>2</sup> The 2005 personal property assessment values petitioner's machinery and equipment at \$135,000, furniture and fixtures at \$6,800 and all other at \$1,400.

7. On November 29, 2006, respondent filed with the Commission a notice of motion and motion to dismiss petitioner's petition for review along with accompanying affidavits and brief, based on petitioner's failure to timely file objections with the State Board of Assessors.

8. The Commission issued a briefing order dated November 6, 2006, which stated that no later than 60 days following respondent's filing of a motion to dismiss, petitioner was required to file its response to respondent's motion to dismiss.

9. Petitioner has failed to file any response to respondent's motion to dismiss.

### **CONCLUSION OF LAW**

The Commission lacks jurisdiction over this petition for review because petitioner never filed a timely objection to either the 2004 or 2005 assessment with the State Board of Assessors and, thus, was not aggrieved by a determination of the State Board of Assessors under Wis. Stat. § 70.995(8), a requirement necessary to confer jurisdiction on the Commission under Wis. Stat. § 73.01(5).

### **RULING**

The Commission has jurisdiction to review actions of the State Board of Assessors pursuant to a timely petition for review filed by any person "who is aggrieved by a determination of the state board of assessors under s. 70.995(8) . . . ." Wis. Stat. § 73.01(5)(a). The procedure for filing an objection to an action of the State Board of Assessors is found in Wis. Stat. § 70.995(8):

(b) 1. [O]bjections to valuation, amount, or taxability must be filed with the state board of assessors within 60 days of issuance of the notice of assessment, . . . the fee under par. (c) or (d) must be paid and that the objection is not filed until the fee is paid.

(c) 1. All objections to the amount, valuation, taxability, or change from assessment under this section to assessment under Section 70.32 (1) of property shall be first made in writing on a form prescribed by the department of revenue that specifies that the objector shall set forth the reasons for the objection, the objector's estimate of the correct assessment, and the basis under Section 70.32 (1) for the objector's estimate of the correct assessment. An objection shall be filed with the state board of assessors within the time prescribed in par. (b) A \$45 fee shall be paid when the objection is filed unless a fee has been paid in respect to the same piece of property and that appeal has not been finally adjudicated. The objection is not filed until the fee is paid. Neither the state board of assessors nor the tax appeals commission may waive the requirement that objections be in writing.

Petitioner failed to timely object to either the 2004 or 2005 assessment within the time period required by Wis. Stat. § 70.995. Neither assessment was objected to within 60 days of the issuance of the notice of that assessment. Petitioner failed to file any objection to the 2004 assessment and filed an objection to the 2005 assessment approximately 6 months late.

If petitioner had timely objected to either the 2004 or 2005 assessment and subsequently filed a timely petition for review with the Commission, the Commission could have addressed any of petitioner's questions regarding the tax liability underlying the assessments. However, that is not the case here. Petitioner never filed a timely objection with the State Board of Assessors. The assessments are now final and conclusive, and are subject to collection by respondent. Because petitioner did not timely file an objection with the State Board of Assessors with respect to either of the assessments,

the Commission lacks jurisdiction over the petition for review. This is not a discretionary matter and, therefore, the Commission is required to dismiss the petition for review.<sup>3</sup>

**ORDER**

Respondent's motion to dismiss is granted, and the petition for review is dismissed.

Dated at Madison, Wisconsin, this 21st day of March, 2007.

**WISCONSIN TAX APPEALS COMMISSION**

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Jennifer E. Nashold, Chairperson

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Diane E. Norman, Commissioner

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David C. Swanson, Commissioner

**ATTACHMENT: "NOTICE OF APPEAL INFORMATION"**

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<sup>3</sup> Where a method for review is prescribed by statute, the prescribed method is exclusive. *Jackson County Iron Co. v. Musolf*, 134 Wis. 2d 95, 101,396 N.W. 2d 323 (1986).