

STATE OF WISCONSIN  
TAX APPEALS COMMISSION

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DOUGLAS M. SCHREIBER,

DOCKET NO. 06-S-210

Petitioner,

vs.

DECISION AND ORDER

WISCONSIN DEPARTMENT OF REVENUE,

Respondent.

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**ROGER W. LEGRAND, COMMISSIONER:**

**FACTS**

This matter comes before the Commission on respondent's motion to dismiss. On or about August 16, 2006, petitioner filed a Petition for Review with the Wisconsin Tax Appeals Commission stating that he was appealing a field audit action dated October 24, 2005, notifying him that an additional sales and use tax was due in the amount of \$44,154.63. (Affidavit of Lisa Gilmore, Exhibits 1-15.) In his appeal, petitioner requested that his records be reviewed. Petitioner was a fishing guide and charter captain when he was in business but left the business in September 2005. On October 24, 2006, the respondent reviewed petitioner's records and recalculated the amount due. After several status conferences, petitioner admitted on August 7, 2007 that he did not have any claims in support of his petition and agreed to enter into a settlement stipulation. The Commission advised him, along with the respondent, that if the stipulation was not signed within 60 days, it would entertain a motion to dismiss

the appeal. On August 9, 2007, the stipulation was mailed to petitioner. On September 18, 2007, respondent sent petitioner follow-up correspondence advising that failure to respond would result in dismissal of his appeal.

On January 23, 2008, respondent filed a notice of motion and motion to dismiss. The Commission sent out a briefing order on January 29, 2008 ordering petitioner to file a response to respondent's motion. As part of the briefing order, the Commission stated that it would rule on the motion based on the record as it currently exists, if no response was filed. Petitioner failed to file a brief or make any response to the briefing order.

#### **ORDER & RULING**

Respondent has provided the relief petitioner sought by reviewing his documents. After the review, petitioner agreed to a settlement stipulation but failed to return the stipulation after being advised that failure to do so might result in dismissal of his appeal. He filed no response to respondent's motion to dismiss, and the Commission's order to respond by February 28, 2008. Consequently, the respondent's motion to dismiss is granted and petitioner's appeal is dismissed.

Dated at Madison, Wisconsin, this 17<sup>th</sup> day of June, 2008.

**WISCONSIN TAX APPEALS COMMISSION**

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Roger W. LeGrand, Commissioner

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"