

CR 85-134

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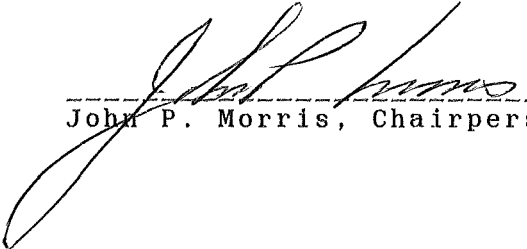
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STATE OF WISCONSIN )  
 )SS.  
TAX APPEALS COMMISSION)

I, John P. Morris, Chairperson of the Wisconsin Tax Appeals Commission and custodian of the official records do hereby certify that the annexed rules relating to the provision of transcripts in proceedings before the commission and assessing damages for filing frivolous appeals, were duly approved and adopted by this commission on December 6, 1985.

I further certify that this copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 101 South Webster Street in the city of Madison this 6th day of December 1985.

  
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John P. Morris, Chairperson

2-1-86

ORDER OF THE TAX APPEALS COMMISSION ADOPTING,  
AMENDING OR REPEALING RULES.

Relating to the provision of transcripts in proceedings before the commission and assessing damages for filing frivolous appeals.

To amend TA 1.55 (1); to repeal and recreate TA 1.55 (2); to renumber and amend TA 1.55 (3); to create TA 1.55 (3) relating to the provision of transcripts in proceedings before the commission and TA 1.63 relating to frivolous appeals.

Analysis prepared by the Tax Appeals Commission:

The amending of s. TA 1.55, Wis. Admin. Code, permits the Tax Appeals Commission to make electronic tape recordings of the hearings and assesses to the party making the request, all costs for copies of a written transcript or tape recording of a commission hearing.

The creation of s. TA 1.63, Wis. Admin. Code, establishes the standards under which the commission may assess damages to a taxpayer for filing a frivolous appeal.

The rule amendments do not affect small business.

Pursuant to authority vested in the Tax Appeals Commission by ss. 73.01 (4)(b) and 227.014 (2), Stats., the Tax Appeals

Commission hereby amends and creates rules interpreting s. 73.01 (4)(c), Stats., as follows:

SECTION 1. TA 1.55 (1) is amended to read:

TA 1.55 TRANSCRIPTS. (1) The commission shall make either a stenographic, electronic or other record of all commission hearings.

"Note:" See ss. 73.01 (4)(c) and 227.07 (8), stats.

SECTION 2. TA 1.55 (2) is repealed and recreated to read:

(2) If the hearing has been electronically tape recorded, copies of tapes will be provided upon request at a cost of \$10 per tape, paid in advance.

SECTION 3. TA 1.55 (3) is created to read:

(3) Upon request of a party, the commission may order preparation of a written transcript of a hearing. The party making the request shall be responsible for all reasonable costs incurred by the commission in transcribing the record and in preparation of the transcript. Costs may be prorated among the parties if more than one party makes the request. The original of the transcript shall be retained by the commission.

SECTION 4. TA 1.55 (3) is renumbered (4) and as renumbered, is amended to read:

(4) Upon proper showing of financial inability to pay for a copy of the written transcript, the commission may furnish a copy of a tape recording or transcript to a party without cost.

SECTION 5. TA 1.63 is created to read:

TA 1.63 FRIVOLOUS APPEALS. (1) Whenever it appears to the commission or to a commissioner in respect to hearings decided by one commissioner, that an appeal has been instituted or maintained primarily for delay or is frivolous or groundless, the commission or commissioner, at the time the decision in the matter is issued, may assess damages against the taxpayer in an amount not to exceed \$1,000.

"Note:" See s. 73.01 (4)(am), stats.

(2) In order to assess such damages, the commission or commissioner must find one or more of the following:

(a) The appeal was instituted or maintained primarily for delay.

(b) The appeal was filed, used or continued in bad faith, solely for purposes of harassing or maliciously injuring another.

(c) The petitioner or petitioner's representative knew, or should have known, that the appeal was without

reasonable basis in law or equity or could not be supported by a good faith argument for an extension, modification or reversal of existing law.

(3) In any matter in which the commission or commissioner has ordered an assessment of damages as provided in sub. (1), the commission or commissioner shall notify the department of revenue in writing within 10 days after the assessment.

The rules, amendments and repeals contained in this order shall take effect as provided in s. 227.026 (1) (intro.), Stats.

Dated: December 6, 1985

Tax Appeals Commission

  
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John P. Morris, Chairperson

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