

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
MARGARET V. JOHNSON	:	DETERMINATION
	:	DTA NO. 817374
for Redetermination of a Deficiency or for Refund of	:	
Personal Income Tax under Article 22 of the Tax Law	:	
for the Years 1988 through 1993.	:	

Petitioner, Margaret V. Johnson, 420-64 Street, Apt. 10-H, Brooklyn, New York 11220, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1988 through 1993.¹

On April 21, 2000 and April 26, 2000, respectively, petitioner Margaret V. Johnson, and the Division of Taxation, by Barbara G. Billett, Esq. (Herbert M. Friedman, Jr., Esq., of counsel), waived a hearing and agreed to submit the matter for determination based on documents and briefs to be submitted by September 1, 2000, which date commenced the six-month period for the issuance of this determination. After review of the evidence and arguments presented, Frank W. Barrie, Administrative Law Judge, renders the following determination.

ISSUE

Whether petitioner is entitled to a refund of personal income tax paid on her income from IRA distributions when her refund claims were not filed within three years of the filing of her respective tax returns for each of the six years at issue.

¹ Petitioner did not seek corresponding refunds of any *New York City* personal income tax.

FINDINGS OF FACT

1. In each of the six years at issue, petitioner, Margaret V. Johnson, received income from IRA distributions as follows:

Year	IRA distribution from Greenpoint Savings Bank	IRA distribution from Manufacturers Hanover ²	Total IRA distributions
1988	\$ 3,000.00	\$ 60.00	\$ 3,060.00
1989	1,700.00	2,637.28	4,337.28
1990	4,000.00	1,843.25	5,843.00
1991	4,054.74	3,064.05	7,119.00
1992	4,328.24	1,097.97	5,426.00
1993	9,677.98 ³	1,200.71	10,878.69

2. In January 1998, petitioner read a “Family Finance” newspaper column by Newsday’s business reporter, Lynn Brenner, which, in response to a reader’s question, noted that for New York State income tax purposes there is “a \$20,000 annual exemption for IRA distributions.” As a result, petitioner sought refunds of New York State income tax paid on IRA distributions for each of the years at issue, 1988 through 1993, as well as subsequent years, by the filing of amended tax returns. She sought the refund of taxes paid on IRA distributions for the years at issue in the following amounts:

Year	Amount of Refund Claimed
1988	\$ 246.00
1989	278.00
1990	464.00

² In 1992 and 1993, the IRA distributions were from Chemical Bank.

³ The Form 1099-R from Greenpoint Savings Bank for 1993 shows an IRA distribution of \$9,677.98. For purposes of preparing her refund claim, petitioner misread this amount as \$4,677.98.

1991	610.00
1992	517.00
1993	627.00
Total	\$ 2,742.00

3. Refunds were provided by the Division of Taxation (“Division”) for subsequent years but not for the years at issue. Rather, the Division issued a Notice of Disallowance dated October 5, 1998 which provided the following explanation: “Your claim for refund on the amended returns for the tax years 1988-1993 are disallowed because they were not filed within three years from the time the return was required to be filed.”

4. Petitioner prepared her own income tax returns for the years at issue. She failed to subtract her income from the IRA distributions detailed in Finding of Fact “1” on the appropriate line which is labeled “pension and annuity income exclusion” in the section for “New York Subtractions.” According to petitioner, she was misled because the line on the tax returns did not specifically reference IRA distribution income. However, the *instructions* for the line did note that qualifying pension and annuity income for this exclusion included periodic and lump-sum payments from an IRA. Petitioner conceded that she did not read these instructions when she prepared her tax returns for the years at issue.

5. Petitioner timely filed each of her New York personal income tax returns for the years at issue: the 1988 return on or before August 9, 1989; the 1989 return on or before April 15, 1990; the 1990 return on or before April 15, 1991; the 1991 return on or before April 15, 1992; the 1992 return on or before April 15, 1993; and the 1993 return on or before April 15, 1994. Her amended returns which sought the refund of income tax paid on IRA distributions were filed

on or after July 12, 1998, a date which is more than four years after April 15, 1994, the *latest* date on which any one of her tax returns for the years at issue was originally filed.

SUMMARY OF THE PARTIES' POSITIONS

6. Petitioner, describing herself as a college graduate who is 83 years old, believes she should be able to do her own tax returns correctly. She maintains that she was misled by the format of the New York income tax return which did not reference IRA distributions on the line where a taxpayer is permitted to exclude such income as a New York subtraction from Federal adjusted gross income. Petitioner points out that the format of the Federal income tax return separately references IRA distributions, categorizing such income apart from income from pensions and annuities, which has its own separate line on the Federal return. In contrast, the format of the New York income tax return, which only referenced pension and annuity income, misled her. Without reading the instructions for the tax return, it was not clear that her income from IRA distributions should be included in such pension and annuity income as a New York subtraction.

7. The Division counters that the statute of limitations is a bar to petitioner's refund claims: "The Tax Appeals Tribunal has spoken on the need for taxpayers claiming refunds to comply with the bright line requirements of § 687(a)" (Division's letter brief, p. 2).

CONCLUSIONS OF LAW

A. Pursuant to Tax Law § 687(a), a limitations period is imposed upon taxpayers who wish to claim a refund of an overpayment of income tax as follows:

Claim for credit or refund of an overpayment of income tax shall be filed by the taxpayer *within three years from the time the return was filed* or two years from the time the tax was paid, whichever of such periods expires the later, or if no return was filed, within two years from the time the tax was paid. If the claim is filed within the three year period, the amount of the credit or refund shall not

exceed the portion of the tax paid within the three years immediately preceding the filing of the claim plus the period of any extension of time for filing the return (Emphasis added.)

B. Petitioner does not contest the fact that her refund claims for each of the years at issue were not timely filed, as detailed in Finding of Fact “5”. Rather, petitioner contends that the period of limitations should not bar her claims because the format of the State income tax returns misled her. This contention is rejected. The Tax Appeals Tribunal in *Matter of Jones* (January 9, 1997) noted that New York’s income tax refund procedures have been recognized as a “constitutionally sound scheme which . . . simultaneously [respected] the State’s fisc [citation omitted].” In *Jones*, the taxpayer’s refund claim was denied despite the fact that New York State had required the payment of State income tax on Federal pension income in violation of the United States Constitution. In contrast, in the matter at hand, petitioner’s own failure to read the instructions for the State income tax return contributed to her failure to exclude her IRA distribution income from State taxation. If the statute of limitations was applied to the taxpayer in *Jones*, who was taxed by New York in violation of the United States Constitution, it may certainly be applied to petitioner. In short, New York State’s interest in financial stability justifies its enforcement of the three-year statute of limitations under Tax Law § 687(a).

C. Nevertheless, petitioner’s point that the format of the State income tax return was misleading does have some validity. It would have been clearer, assuming space permitted, if the terminology “pension, annuity and IRA distribution income exclusion” was used on the tax return instead of “pension and annuity income exclusion,” as noted in Finding of Fact “4”. However, such shortcoming does not provide a basis to revive claims for refund which were barred by the period of limitations specified in law.

D. In conclusion, a three-year period of limitations to file a refund claim has been recognized by the United States Supreme Court as sufficient for due process requirements (*McKesson Corp. v. Division of Alcoholic Beverages and Tobacco*, 496 US 18, 45, 110 L Ed 2d 17, 41), and petitioner's refund claims were properly disallowed by the Division.

E. The petition of Margaret V. Johnson is denied, and the Notice of Disallowance dated October 5, 1998 is sustained.

DATED: Troy, New York
January 25, 2001

/s/ Frank W. Barrie
ADMINISTRATIVE LAW JUDGE