STATE OF NEW YORK

TAX APPEALS TRIBUNAL

In the Matter of the Petition of **DIANE RILEY** for Redetermination of a Deficiency or for Refund of New York State and New York City Personal Income Taxes under Article 22 of the Tax Law and the Administrative Code of the City of New York for the Year 2017.	: : : : : :	DECISION DTA NO. 850310

Petitioner, Diane Riley, filed an exception to the determination of the Administrative Law Judge issued on October 16, 2025. Petitioner appeared pro se. The Division of Taxation appeared by Amanda Hiller, Esq. (Stefan Armstrong, Esq, of counsel).

Petitioner filed a brief in support of the exception. The Division of Taxation filed a letter brief in opposition. Petitioner did not file a reply brief. Oral argument was not requested.

After reviewing the entire record in this matter, the Tax Appeals Tribunal renders the following decision.

ISSUE

Whether petitioner established that the Division of Taxation improperly denied petitioner's refund claim pursuant to Tax Law § 687 (a).

FINDINGS OF FACT

We find the facts as determined by the Administrative Law Judge. These facts are set forth below.

1. On May 17, 2021, petitioner, Diane Riley, filed form IT-201, New York State resident income tax return, for tax year 2017 (2017 return). Petitioner reported wage income of $77,210.00, New York adjusted gross income of $76,010.00, and total New York State and New York City taxes due of $5,180.00. After claiming total New York City school tax credits (fixed and rate reduction amounts) of $184.00 and total New York State and New York City taxes withheld of $6,845.00, petitioner requested a refund of $1,849.00.

2. Petitioner did not file form IT-370, application for automatic six-month extension of time to file for individuals, for tax year 2017.

3. On June 16, 2021, the Division of Taxation (Division) issued to petitioner an account adjustment notice (notice) denying petitioner's refund claim of $1,849.00 for tax year 2017 as follows:

> "We denied your claim for the refund or credit because it was filed too late. The tax law allows a refund or credit if the taxpayer makes the claim within three tax years from the time the return was required to be filed or within two years from the time the tax was paid, whichever is later."

4. Petitioner requested a conciliation conference before the Division's Bureau of Conciliation and Mediation Services (BCMS), which was conducted on August 25, 2022. By conciliation order, CMS number 000331519, dated October 7, 2022, BCMS sustained the notice.

5. On October 21, 2022, petitioner timely filed a petition with the Division of Tax Appeals protesting the conciliation order.

6. At the hearing, the Division submitted the affidavit of Oscar Boomer, a Taxpayer Services Specialist 2 in the Division's Office of Processing & Taxpayer Services. Mr. Boomer's duties include reviewing personal income tax returns and refundable credits. Mr. Boomer performed the review of petitioner's 2017 return and avers that the Division has no record of petitioner applying for an extension of time to file her tax return for tax year 2017 and no record

of petitioner filing a New York State personal income tax return for tax year 2017 prior to May 17, 2021. Mr. Boomer further avers that petitioner's refund claim for tax year 2017 is time-barred pursuant to the limitations in Tax Law § 687 (a).

7. Petitioner testified at the hearing. Petitioner acknowledged filing her 2017 return on May 17, 2021, based on her belief that the filing deadline was extended to May 17, 2021. Petitioner testified that she relied on information made available to the public, particularly the Division's *Announcement Regarding Extension of the Deadline to File Personal Income Tax Returns for Tax Year 2020*, Notice N-21-1 (Notice N-21-1), Internal Revenue Service (IRS) notices and communications with IRS personnel. Petitioner posited "that the wording was the same for the [Notice] N-21-1 as well as the IRS.gov official release in March of 2021." Petitioner also maintained that "the way that the notices were given to the public, there was room for misinterpretation" and that Notice N-21-1 "did not explicitly state that the three-year back taxes were exempt from the May 17th extension." Petitioner requested consideration in light of these ambiguities.

THE DETERMINATION OF THE ADMINISRATIVE LAW JUDGE

The Administrative Law Judge noted that the limitation periods for claiming a credit or refund of personal income tax is three years from the date the return was filed or two years from the date the tax was paid, whichever is later (Tax Law § 687 [a]). The Administrative Law Judge further noted that Tax Law § 687 (a) limits the refund allowed to the amount of taxes paid within the three-year period preceding the filing of the refund claim, plus the period for any extension of time for filing the return.

The Administrative Law Judge provided that pursuant to Tax Law § 687 (i), any tax paid by a taxpayer, income tax withheld from a taxpayer and any amount paid by a taxpayer as estimated income tax for a taxable year is deemed to have been paid on the fifteenth day of the fourth month following the close of the taxable year with respect to which such amount constitutes a credit or payment, and accordingly, the 2017 payments that comprise petitioner's refund claim were deemed paid on April 15, 2018.

The Administrative Law Judge determined that while petitioner's May 17, 2021 refund claim was timely filed, because petitioner did not have an extension of time to file the 2017 return, petitioner's refund is limited by Tax Law § 687 (a) to the amount of tax paid within the three years immediately preceding the May 17, 2021 refund claim, which results in a refund of $0.00.

The Administrative Law Judge also rejected petitioner's assertion that petitioner was operating under a mistake of fact in understanding that the due date for personal income tax returns for tax year 2017 was extended by Notice N-21-1[1] until May 17, 2021, and accordingly determined that petitioner failed to demonstrate applicability of the special refund authority relief under Tax Law § 697 (d). Accordingly, the Administrative Law Judge denied the petition and sustained the account adjustment notice dated June 16, 2021.

ARGUMENTS ON EXCEPTION

On exception, petitioner argues that she was entitled to a refund under Tax Law § 697 (d) because the failure to request an extension for the personal income tax filing for the 2017 tax year, which would extend the limitation period for claiming the refund, was due to a mistake of fact arising from her misinterpretation of Notice N-21-1. The Division asserts that petitioner was

---

[1] On March 17, 2021, the IRS announced postponement of the federal income tax filing due date for individuals for tax year 2020 from April 15, 2021 to May 17, 2021 (***see*** IRS News Release IR-2021-59 [Mar 17, 2021]). That announcement specifically advised that "[t]he federal tax filing postponement to May 17, 2021, only applies to individual federal income tax returns . . . [s]tate filing and payment deadlines vary . . . [and] [t]he IRS urges taxpayers to check with their state tax agencies for those details" (***id.***; ***see also*** IRS Notice 2021-21, 2021-15 IRB 986 [explaining that the period of limitations to file a claim for credit or refund of federal income tax expiring on or after April 15, 2021, and before May 17, 2021, was postponed until May 17, 2021]).

not entitled to a refund under Tax Law § 697 (d), as petitioner was operating under a mistake of law and not a mistake of fact. Specifically, the Division contends that petitioner had not yet filed a New York State personal income tax return for tax year 2017, nor had requested an extension to file. Furthermore, the Division contends that petitioner was merely unaware of the legal consequences of failing to undertake these actions (i.e., that the limitation period for claiming an income tax refund for tax year 2017 was unaffected by the filing deadline extension for personal income tax returns for tax year 2020). Accordingly, the Division argues that petitioner's exception should be denied in its entirety and that the determination of the Administrative Law Judge should be affirmed.

OPINION

We first note that petitioner bears the burden of proof to establish by clear and convincing evidence that the Division's disallowance of the claimed refund is erroneous (Tax Law § 689 [e]; ***Matter of Suburban Restoration Co. v Tax Appeals Trib. of State of N.Y.***, 299 AD2d 751, 752 [3d Dept 2002]). Tax Law § 687 (a) provides that a claim for refund of an overpayment of personal income tax must be filed by the taxpayer within three years from the time the return was filed or within two years from the time the tax was paid, whichever period expires the latest.

Tax Law § 687 (a) limits the amount of the refund to the amount of taxes paid within the three years immediately preceding the filing of the refund claim, plus the period for any extension of time for filing the return. Therefore, petitioner's refund amount is limited to taxes paid during the three years immediately preceding the May 17, 2021 filing date. The amount that petitioner sought as an overpayment was based on excess withholding, which is deemed to have been paid on the 15th day of the fourth month following the close of the taxable year (i.e.

April 15, 2018) (***see*** Tax Law § 687 [i]). Petitioner did not have an extension for the filing of her 2017 tax return, and there is no evidence in the record that petitioner paid any tax for the 2017 tax year within the three years preceding the May 17, 2021 filing of the 2017 tax return. Therefore, the record reflects that the refund amount claimed is limited by Tax Law § 687 (a) to $0.00.

Petitioner alleges that the failure to file the refund claim within the three-year lookback limitation period for claiming an income tax refund for tax year 2017 was based upon her incorrect understanding that Notice N-21-1, which extended the filing deadline for personal income tax returns for tax year 2020, applied to personal income tax filings due for tax year 2017.

We first note that petitioner's New York State personal income tax return for tax year 2017 was originally due on April 17, 2018 and thus was clearly not affected by the extension provided for in Notice N-21-1 (***see*** Tax Law § 651 [a] [providing the time for filing an income tax return as the fifteenth day of the fourth month following the close of the taxable year]; ***see also Matter of Goldenberg***, Tax Appeals Tribunal, July 10, 2025 [holding that the limitation period for claiming a personal income tax refund for tax year 2016 was unaffected by the filing deadline extension for tax year 2019 personal income tax returns originally due on April 15, 2020], ***remanded on other grounds***).

Petitioner further alleges that this incorrect understanding of Notice N-21-1 is justified as a "mistake of fact," warranting "special refund authority" under Tax Law § 697 (d).

Tax Law § 697 (d) states:

> "Special refund authority. - - Where no questions of fact or law are involved and it appears from the records of the tax commission that any moneys have been erroneously or illegally collected from any taxpayer or other person, or paid by such taxpayer or other person under a mistake of facts, pursuant to the provisions

> of this article, the tax commission at any time, without regard to any period of limitations, shall have the power, upon making a record of its reasons therefor in writing, to cause such moneys so paid and being erroneously and illegally held to be refunded and to issue therefor its certificate to the comptroller."

We agree with the Administrative Law Judge's determination that the special refund authority is permissive, not mandatory (***id.***; ***see also Matter of Fiduciary Trust Co. of N.Y. v State Tax Commn.***, 120 AD2d 848, 850 [3d Dept 1986]). For the special refund authority to apply, the money must have been paid under a mistake of fact and not a mistake of law (***see*** Tax Law § 697 [d]; ***Matter of Nathel v Commissioner of Taxation & Fin. of State of N.Y.***, 232 AD2d 836 [3d Dept 1996]; ***see also Matter of Wallace***, Tax Appeals Tribunal, October 11, 2001). This Tribunal has clarified that a mistake of fact is "an understanding of the facts in a manner different [than] they actually are" (***Matter of Wallace***), while a mistake of law is an "acquaintance with the existence or nonexistence of facts, but ignorance of the legal consequences following from the facts" (***id.***).

We agree with the Administrative Law Judge's determination that petitioner was clearly operating under a mistake of law in that petitioner was acquainted with the facts (i.e., that petitioner had not yet filed a New York State personal income tax return for tax year 2017, nor requested an extension), but was unaware of the legal consequences following from the facts (i.e., that the limitation period for claiming an income tax refund for tax year 2017 was unaffected by the filing deadline extension for personal income tax returns for tax year 2020). Accordingly, the special refund authority in Tax Law § 697 (d) does not apply.

As petitioner has not demonstrated that she was operating under a mistake of fact, she has failed to demonstrate applicability to her claim of the special refund authority relief under Tax Law § 697 (d). Petitioner has failed to meet her burden of proof of establishing with clear and convincing evidence that the account adjustment notice denying the refund claimed was erroneous, and the notice is therefore sustained.

Accordingly, it is ORDERED, ADJUDGED and DECREED that:

1. The exception of Diane Riley is denied;
2. The determination of the Administrative Law Judge is affirmed;
3. The petition of Diane Riley is denied; and
4. The account adjustment notice dated June 16, 2021 is sustained.

DATED: Albany, New York
July 9, 2026

/s/ Cynthia M. Monaco
Cynthia M. Monaco
Commissioner

/s/ Kevin A. Cahill
Kevin A. Cahill
Commissioner