

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
RAMONE R. CHAMBERS	:	DETERMINATION
	:	DTA NO. 831511
for Redetermination of a Deficiency or for Refund of	:	
New York State Personal Income Tax under Article 22	:	
of the Tax Law for the Year 2022.	:	

Petitioner, Ramone R. Chambers, filed a petition for redetermination of a deficiency or for refund of New York State personal income tax under article 22 of the Tax Law for the year 2022.

On June 16, 2026, the Division of Taxation, by its representative, Amanda Hiller, Esq. (Laureen McCloskey, Esq., of counsel), brought a motion seeking summary determination in its favor in the above-referenced matter pursuant to Tax Law § 2006 and sections 3000.5 and 3000.9 (b) of the Rules of Practice and Procedure of the Tax Appeals Tribunal. Petitioner, appearing pro se, failed to file a response to the motion by July 16, 2026, which date commenced the 90-day period for the issuance of this determination.

Based upon the motion papers and all pleadings and documents submitted in connection with this matter, Kevin R. Law, Administrative Law Judge, renders the following determination.

ISSUE

Whether the Division of Taxation is entitled to summary determination in its favor.

FINDINGS OF FACT

1. On June 1, 2023, petitioner, Ramone R. Chambers, filed form IT-203, New York State nonresident and part-year resident income tax return, for the year 2022 (the return).

2. On the return, petitioner reported New York State personal income tax of \$3,415.00. After claiming New York State tax withheld of \$1,208.00, petitioner reported tax due of \$2,207.00. In addition, petitioner self-assessed an estimated tax penalty for \$107.00. Petitioner did not remit payment of the amount reported due on the return.

3. On July 10, 2023, the Division of Taxation (Division) issued a statement of proposed audit change to petitioner asserting tax and estimated tax penalty as reported on the return, as well as penalties for late filing the return pursuant to Tax Law § 685 (a) (1) and failing to pay tax due pursuant to Tax Law § 685 (a) (2). Interest was also asserted pursuant to Tax Law § 684.

4. On August 25, 2023, the Division issued notice of deficiency, notice number L-058633815 (notice), to petitioner consistent with the July 10, 2023, statement of proposed audit change.

5. On November 28, 2023,¹ petitioner filed the instant petition challenging the notice.

The petition alleges as follows:

“1) The New York commissioner of taxation and finance made an error on my tax returns, since I was taxed on my overall income for the year 2022 instead of four and a half months that I worked in New York. According to my last NY paycheck;

YTD taxable amt- \$25,319.68

YTD withholding tax-\$ 1,207.88

2) I also want to to [sic] dispute the late filling penalty fee. I submitted all my documented [sic] to my preparer and she said they were submitted before the closing date.”

¹ On September 20, 2024, the Division of Tax Appeals issued a notice of intent to dismiss petition (NOI) because the petition appeared to be untimely filed. By letter, dated October 22, 2024, the Division advised the Division of Tax Appeals that it did not have sufficient documentation to submit on the failure to timely file a petition. Therefore, by letter, dated October 29, 2024, the Division of Tax Appeals rescinded the NOI.

6. After issue had been joined, the Division filed the subject motion. Included with the Division's motion was the affirmation of Laureen McCloskey, Esq., dated June 16, 2026, and the affidavit of John Verba, a Taxpayer Services Specialist 4 in the Division's Office of Processing and Taxpayer Services, sworn to on June 16, 2026, with attached exhibits. Mr. Verba sets forth the timeline of events beginning with the filing of the return and the issuance of the notice. Mr. Verba also avers that the Division has no record of petitioner requesting an automatic extension of time to extend the deadline for filing his 2022 return.

7. Petitioner did not file a response to the motion.

CONCLUSIONS OF LAW

A. A motion for summary determination is properly granted "if, upon all the papers and proof submitted, the administrative law judge finds that it has been established sufficiently that no material and triable issue of fact is presented and that the administrative law judge can, therefore, as a matter of law, issue a determination in favor of any party" (20 NYCRR 3000.9 [b] [1]).

B. Section 3000.9 (c) of the Rules of Practice and Procedure of the Tax Appeals Tribunal (Rules) provides that a motion for summary determination is subject to the same provisions as a motion for summary judgment pursuant to Civil Practice Law and Rules 3212. "The proponent of a summary judgment motion must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to eliminate any material issues of fact from the case" (*Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985], citing *Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]). As summary judgment is the procedural equivalent of a trial, it should be denied if there is any doubt as to the existence of a triable issue or where the material issue of fact is "arguable" (*Glick & Dolleck v Tri-Pac Export Corp.*, 22

NY2d 439, 441 [1968]; *Museums at Stony Brook v Village of Patchogue Fire Dept.*, 146 AD2d 572, 573 [2d Dept 1989]). If material facts are in dispute, or if contrary inferences may be drawn reasonably from undisputed facts, then a full trial is warranted and the case should not be decided on a motion (*see Gerard v Inglese*, 11 AD2d 381, 382 [2d Dept 1960]). “To defeat a motion for summary judgment, the opponent must . . . produce ‘evidentiary proof in admissible form sufficient to require a trial of material questions of fact on which he rests his claim’” (*Whelan v GTE Sylvania*, 182 AD2d 446, 449 [1st Dept 1992], citing *Zuckerman v City of New York*, 49 NY2d at 562).

C. In this case, the Division issued a notice of deficiency asserting the tax and estimated tax penalty that petitioner self-assessed on his late-filed return; the notice also asserted penalties for late filing said return and for failing to pay the amount reported due, as well as interest. Petitioner failed to respond, let alone introduce any evidence in admissible form, that contradicts the facts set forth in the Division’s motion papers. Therefore, petitioner has conceded that no question of fact requiring a hearing exists (*see Kuehne & Nagel v Baiden*, 36 NY2d 539 [1975]; *John William Costello Assoc. v Standard Metals Corp.*, 99 AD2d 227 [1st Dept 1984], appeal dismissed 62 NY2d 942 [1984]). Thus, with no dispute as to the facts and no basis in law upon which to grant the petition, summary determination is appropriate (*see Matter of Faupel, Tax Appeals Tribunal*, December 23, 2015).

D. The Division of Taxation’s motion for summary determination is granted, the petition of Ramone R. Chambers is denied and the notice of deficiency, dated August 25, 2023, is sustained.

DATED: Albany, New York
October 8, 2026

/s/ Kevin R. Law
ADMINISTRATIVE LAW JUDGE