

STATE OF NEW YORK
DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
IDOWU O. ODEDOSU	:	DETERMINATION
for Redetermination of a Deficiency or for Refund of	:	DTA NO. 850501
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.	:	

Petitioner, Idowu O. Odedosu, filed a petition 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.

A formal hearing by videoconference was held before Winifred M. Maloney, Administrative Law Judge, on June 25, 2025, with all briefs to be submitted by November 7, 2025, which date began the six-month period for issuance of this determination. Petitioner appeared pro se. The Division of Taxation appeared by Amanda Hiller, Esq. (Michele W. Milavec, Esq., of counsel).

ISSUE

Whether petitioner established that the Division of Taxation improperly denied her claim for credit or refund of New York State and New York City personal income taxes for tax year 2017.

FINDINGS OF FACT

Pursuant to section 3000.15 (d) (6) of the Rules of Practice and Procedure of the Tax Appeals Tribunal and section 307 (1) of the State Administrative Procedure Act, the Division of Taxation (Division) submitted 9 proposed findings of fact. The Division's proposed findings of fact 4, 6 through 7 and 9 are supported by the record and have been substantially incorporated herein. Proposed finding of fact 8 has been modified to more accurately reflect the record and, as modified, has been substantially incorporated herein. Proposed findings of fact 1 through 3 and 5 are rejected as conclusory.

1. On October 13, 2021, petitioner, Idowu O. Odedosu, filed form IT-201, New York State resident income tax return, for tax year 2017 (2017 return), in an envelope bearing a United States Postal Service (USPS) postage paid stamp of its Stevens Point, Wisconsin 54481 branch, dated October 15, 2021.¹ Petitioner reported wage income of \$63,262.00, ordinary dividends of \$327.00, schedule D capital gain of \$778.00, New York adjusted gross income of \$65,164.00 and total New York State and New York City taxes due of \$5,141.00. After claiming New York City school tax credits (fixed and rate reduction amounts) of \$180.00 and total New York State and New York City taxes withheld of \$5,669.00, petitioner claimed a refund in the amount of \$708.00 and directed it to be deposited into a personal checking account.

2. On November 5, 2021, the Division issued to petitioner an account adjustment notice - personal income tax (account adjustment notice) denying petitioner's refund claim of \$708.00

¹ The record includes documents generated by the Division that list petitioner's 2017 return file date as October 13, 2021. The Division has offered no explanation for the different dates.

for tax year 2017.² The explanation section of the account adjustment notice stated, in part, the following:

“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 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.”

3. On March 25, 2022, the Division issued to petitioner a notice of disallowance that denied the \$708.00 refund claimed by petitioner for tax year 2017 as untimely filed, for the reasons provided in the account adjustment notice.

4. Petitioner requested a conciliation conference before the Division’s Bureau of Conciliation and Mediation Services (BCMS), which was conducted by teleconference on January 6, 2023. By conciliation order, dated March 10, 2023 (CMS number 000338966), the conciliation conferee sustained the notice of disallowance.

5. On April 6, 2023, petitioner timely filed a petition with the Division of Tax Appeals in protest of the conciliation order.

6. At the hearing, the Division submitted the affidavit of Kelly Tortello, a Taxpayer Services Specialist 2 in the Division’s Individual Liability Resolution Center (ILRC), sworn to on May 28, 2025. Ms. Tortello has been employed by the Division since June 25, 2009 and has held her current position since March 31, 2022. Ms. Tortello’s duties in ILRC include supervising resolvers who handle protests of personal income tax assessments and adjusted refunds. As part of her duties, Ms. Tortello facilitates reviews “to ensure that the New York State Tax Law is being abided by during the review process and through any adjustments to taxpayer accounts.” Ms. Tortello also acts as an advocate for conciliation conferences before

² The account adjustment notice listed an original return due date of April 17, 2018, and a return file date of October 13, 2021.

BCMS and has worked on BCMS cases and advocated at BCMS conferences since March 31, 2022. In performance of those responsibilities, Ms. Tortello reviewed the information in the Division's systems including correspondence, case contacts, filing history and other documents for petitioner, including her 2017 return.

7. Based upon her search and review of the Division's files and records, Ms. Tortello avers that the Division has no record of petitioner filing a form IT-370, application for automatic six-month extension of time to file for individuals (extension request form), to request an extension of time to file her 2017 return. Ms. Tortello also avers that the Division has no record of petitioner filing a 2017 return prior to "October 13, 2021, postmarked October 15, 2021." Ms. Tortello asserts that petitioner's refund claim for tax year 2017 was filed within the three-year period set forth in Tax Law § 687 (a), but it is subject to a limitation on such refund to the amount of taxes paid within the three-year period immediately preceding the filing of the refund claim plus any period for any extension of time to file the return. Ms. Tortello further asserts that the amount petitioner requested as an overpayment was comprised solely of payments and credits deemed paid on April 17, 2018, pursuant to Tax Law § 687 (i). Ms. Tortello claims that because petitioner did not file an extension request form for tax year 2017, petitioner's refund would be limited to tax paid within the three-year period preceding October 13, 2021, i.e., October 13, 2018 through October 13, 2021. Because petitioner's payments and credits were deemed paid on April 17, 2018, Ms. Tortello further claims that petitioner's refund claim for 2017 is untimely and is limited to \$0.00.

8. The Division conducted searches of its files and provided two certifications by Deputy Tax Commissioner Amanda R. House, employed in the Disclosure and Government Exchange unit of the Division's Office of Budget and Management Analysis. The first certification

indicates that a search was made of the Division's files on January 22, 2025, for an extension request form for petitioner for tax year 2017 and no such extension request form was found. The second certification indicates that a search of the Division's files was made on February 5, 2025, for the personal income tax return for petitioner for tax year 2017 and no such personal income tax return was found filed prior to October 13, 2021.

9. Petitioner testified at the hearing. According to petitioner, she "always file[s][her] federal tax extensions and [her] state tax extensions at the same time" and then she has up to three years from those extensions to claim any refund due. Petitioner testified that she used the TurboTax "free" website to file her form 4868, automatic extension of time to file U.S. individual income tax return (federal personal income tax extension), for tax year 2017. She further testified that TurboTax had a button, i.e., a "feature" at that time "where you could file your federal and state tax extensions at the same time, and then that would transfer to whatever state that you needed to file the extension for." Petitioner claims that she used the feature to connect and file the extension request form for tax year 2017 "automatically through the New York State system." Petitioner further claims she is not sure whether the feature "went through successfully" because she does not have a screen shot of the page indicating "continue on to file your state tax extension" or a screen shot of "you filing the state tax extension." Petitioner testified that TurboTax sends her emails after filings are submitted and accepted.

10. At the conclusion of the hearing, petitioner requested and was granted additional time until July 23, 2025, to submit documents in support of the filing of her federal and New York State extension request forms for tax year 2017. In addition, the Division was granted the right to submit rebuttal documents by August 6, 2025.

11. Petitioner timely submitted a copy of an email sent to her by TurboTax on “Wed, Apr 18, 2018 at 4:13 AM” (TurboTax email) In the letter transmitting the email, petitioner asserts that she submitted the federal personal income tax extension and filed the New York extension request form at the same time. Although she does not have any independent proof of her New York State extension request form submission, she recalls “following proper procedures at that time.” She also asserts that it was her understanding, based upon New York State guidance available, “that filing a federal extension sufficed to extend the New York State deadline - provided the state return was filed within the extended time frame.”

12. A review of the TurboTax email indicates that petitioner’s federal personal income tax extension for tax year 2017 was accepted by the Internal Revenue Service, and the due date for filing her federal income tax return was extended to October 15, 2018.

13. Petitioner did not submit any proof that she filed an extension request form for tax year 2017 with the Division.

14. Included with petitioner’s 2017 return was a five-page New York Information Worksheet that indicated in Part X - Extension Status, that the due date was not extended for the filing of her 2017 return.

CONCLUSIONS OF LAW

A. The period of limitations for claiming a credit or refund of personal income tax is set forth in Tax Law § 687 (a) that provides, in part, as follows:

“[c]laim for credit or refund of an overpayment of income tax shall be filed by the taxpayer within (i) three years from the time the return was filed [or] (ii) two years from the time the tax was paid . . . whichever of such periods expires the latest, 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 . . .”

B. The Division “denied [petitioner’s] claim for refund or credit because it was filed too late.” However, petitioner filed her 2017 return on October 13, 2021, and made the refund claim on that 2017 return. Therefore, petitioner’s refund claim was made within the three-year period set forth in Tax Law § 687 (a) and is considered timely filed because the refund was claimed with the filing of petitioner’s 2017 return (*see Matter of Diaz*, Tax Appeals Tribunal, March 17, 2011; *Matter of Petrovich*, Tax Appeals Tribunal, January 20, 2000). However, any refund of an overpayment is limited by the provisions of Tax Law § 687 (a) to the amount of tax paid within the three-year period immediately preceding the filing of the claim for refund plus any extension of time to file the return.

C. There is no dispute that petitioner did not file her 2017 return before October 13, 2021. Petitioner claims that she filed an extension request form for tax year 2017 with the Division. Petitioner testified that she used the TurboTax website to file her federal personal income tax extension for tax year 2017 and received an email from TurboTax confirming the submission of the same. Petitioner vaguely testified that she used a feature in TurboTax that allowed her to access the Division’s tax system to file her extension request form for tax year 2017 at the same time as she filed her federal personal income tax extension, but she was unsure if the feature successfully filed her extension request form with the Division. Petitioner asserts that New York State tax guidance available at that time provided that the filing of a federal personal income tax extension sufficed to extend the due date for filing of a New York State income tax return. Petitioner’s assertion is without merit. The Division requires the filing of an extension request form to extend the period for filing an income tax return (*see* Tax Law § 657 [a]; *see also* 20 NYCRR 157.2 [a], [b]). Although the record includes a copy of a TurboTax email confirming the acceptance of petitioner’s federal personal income tax extension and an

extended due date for filing her federal income tax return until October 15, 2018, petitioner failed to submit any proof to support her claim of filing an extension request form for tax year 2017. The Division has no record of petitioner filing an extension request form for tax year 2017. Moreover, petitioner's 2017 return included a New York Information Worksheet that indicated the due date was not extended for filing her 2017 return. Petitioner's unsupported, vague testimony is insufficient, as a matter of law, to prove the filing of an extension request form for tax year 2017 (*see Matter of Dattilo*, Tax Appeals Tribunal, May 11, 1995, *confirmed*, 222 AD2d 28, 30 [3d Dept 1996]). As such, the due date of April 17, 2018, for the filing of petitioner's 2017 return was not extended. Petitioner filed her 2017 return and refund claim on October 13, 2021. Because petitioner did not file an extension request form for tax year 2017, petitioner's refund is limited by Tax Law § 687 (a) to the amount of tax paid within the three years immediately preceding the October 13, 2021, refund claim, i.e., October 13, 2018 through October 13, 2021. Petitioner's choice to wait to file her 2017 return until October 13, 2021, even though it was due on April 17, 2018, carries with it certain tax ramifications and petitioner is held to those ramifications (*Matter of Faulkner, Dawkins & Sullivan v State Tax Commn.*, 63 AD2d 764, 764 [3d Dept 1978]).

D. 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 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. The 2017 payments that comprise petitioner's refund claim were deemed paid on April 17, 2018.³ Petitioner's refund claim for tax

³ April 15, 2018 fell on a Sunday and Emancipation Day, a legal holiday in the District of Columbia, was celebrated on Monday, April 16, 2018. Therefore, under federal law, the national tax filing deadline was extended to April 17, 2018 (*see* Internal Revenue Code [IRC] [26 USC] § 7503; *see also* Treas Reg [26 CFR] § 301.7503-1).

year 2017, though timely filed, exceeds the amount of tax paid within the three-year period immediately preceding that claim and, thus, is limited by Tax Law § 687 (a) to \$0.00.

E. The petition of Idowu O. Odedosu is denied, and notice of disallowance, dated March 25, 2022, is sustained.

DATED: Albany, New York
May 7, 2026

/s/ Winifred M. Maloney
ADMINISTRATIVE LAW JUDGE