

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
FARRAH P. BELL	:	DETERMINATION DTA NO. 850814
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 2020.	:	

Petitioner, Farrah P. Bell, 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 2020.

A formal hearing by videoconference was held before Nicholas A. Behuniak, Administrative Law Judge, on July 10, 2025, with all briefs due by December 4, 2025, which date began the six-month period for the issuance of this determination. Petitioner appeared pro se. The Division of Taxation appeared by Amanda Hiller, Esq. (Christopher O'Brien, Esq., of counsel).

ISSUES

I. Whether petitioner has established that the Division of Taxation improperly included unemployment compensation in her New York State taxable income for tax year 2020.

II. Whether petitioner has established that the Division of Taxation failed to account for certain tax payments made by her to New York State.

FINDINGS OF FACT

1. On March 28, 2021, petitioner, Farrah P. Bell, electronically filed with the Division of Taxation (Division) form IT-201, New York State resident income tax return, for tax year 2020 (2020 return).

2. Petitioner's 2020 return reported federal and New York State adjusted gross income of \$31,187.00; total New York State tax withheld of \$1,182.00; total New York City tax withheld of \$256.00; New York City school tax credits of \$110.00; and a total New York State and New York City tax liability of \$1,939.00, with \$391.00 remaining due. Petitioner made a \$391.00 electronic funds payment with her 2020 return, thereby making a total of \$1,939.00 (\$1,182.00 + \$256.00 + \$110.00 + \$391.00) in New York State and City tax payments and utilization of refundable credits for 2020.

3. Petitioner's 2020 return reflects total unemployment compensation received of \$33,672.00, with a reduction of \$10,200.00 against that amount.

4. The Division processed petitioner's 2020 return, including the \$391.00 associated electronic funds payment with the filing of her 2020 return. Subsequent thereto, the Division performed a review of petitioner's 2020 return and determined that she had inappropriately reduced the total 2020 unemployment compensation she received by \$10,200.00.

5. On April 21, 2022, the Division issued to petitioner a statement of proposed audit change, bearing assessment identification number L-055704826, for tax year 2020 (statement).

The statement explained, in relevant part, that:

“We adjusted your **recomputed** federal adjusted gross income (line 19a of Form IT-201) to include the unemployment compensation that was excluded from your federal gross income.

Under New York State tax law, unemployment compensation is fully subject to tax. The amount that was excluded on your federal return (up to \$10,200 per

taxpayer) should have been reported as an add back to your New York State return on Line 1, Schedule A of Form IT-558.

Since your federal adjusted gross income was increased, we have adjusted or disallowed any New York deductions or credits that are based on federal adjusted gross income.

We allowed the appropriate NYC school tax credit (rate reduction amount).

Interest is due on the underpayment of tax from the due date of the return to the date the tax is paid in full. Interest is required under section 684(a) of the Tax Law.”

6. The statement reflected the recomputation of petitioner’s 2020 New York State tax liability by including the \$10,200.00 of unemployment compensation in petitioner’s New York State taxable income. The \$10,200.00 adjustment represents the amount of unemployment compensation that petitioner received in 2020 but did not include in her 2020 New York State taxable income. The adjustment resulted in total New York State and New York City income taxes due of \$2,950.00 for 2020. The statement reflected that the total of \$2,950.00 of income taxes due for 2020 was reduced by \$1,939.00, which represents the total taxes due as reported by petitioner on the 2020 return filed (*see* finding of fact 2). These computations resulted in tax due of \$1,011.00 (\$2,950.00 - \$1,939.00). The tax due of \$1,011.00 was further reduced by the Division’s recalculation and increase of the New York City school tax credits available to petitioner of \$23.00. This adjustment resulted in additional tax due of \$988.00 (\$1,011.00 - \$23.00). The statement proposed additional tax due from petitioner of \$988.00, plus interest. No penalty was assessed.

7. The Division issued a notice of deficiency, bearing assessment number L-055704826, dated June 7, 2022, to petitioner, asserting additional tax due in the amount of \$988.00, plus interest, for tax year 2020.

8. Petitioner timely filed a request for conciliation conference with the Division's Bureau of Conciliation and Mediation Services (BCMS) in protest of the notice of deficiency. By conciliation order (CMS number 000342769), dated February 23, 2024, the conciliation conferee sustained the notice of deficiency.

9. On March 15, 2024, petitioner filed a timely petition with the Division of Tax Appeals in protest of the conciliation order.

10. At the hearing, the Division entered into evidence, among other documents, form 1099G, certain government payments, indicating that petitioner was paid \$33,672.00 of unemployment compensation in 2020 by the NYSDOL.

11. At the hearing, petitioner acknowledged that she received a total of \$33,672.00 of unemployment compensation in 2020 and agreed that the entire amount should have been reported as taxable income on her 2020 return. Petitioner testified that she used H&R Block software to prepare her 2020 return, that she entered data into her computer as promoted by the software and that she relied on the H&R Block software to accurately compute her State and City taxable income and associated liability. Petitioner questioned whether the Division ever gave her credit for the \$391.00 electronic funds payment she made with her 2020 return.

CONCLUSIONS OF LAW

A. It is initially noted that determinations made in a notice of deficiency are presumed correct, and the burden of proof is upon petitioner to establish, by clear and convincing evidence, that those determinations are erroneous (*see Matter of Leogrande v Tax Appeals Trib.*, 187 AD2d 768, 769 [3d Dept 1992], *lv denied* 81 NY2d 704 [1993]; *see also* Tax Law § 689 [e]). The burden does not rest with the Division to demonstrate the propriety of the deficiency (*see Matter of Scarpulla v State Tax Commn.*, 120 AD2d 842, 843 [3d Dept 1986]). A taxpayer

who fails to present any evidence to show that the notice is incorrect surrenders to this presumption (*id.*).

B. Pursuant to Tax Law § 612 (a), “[t]he New York adjusted gross income of a resident individual means his federal adjusted gross income as defined in the laws of the United States for the taxable year[.]” Internal Revenue Code (IRC) (26 USC) § 85 (a) provides: “[i]n the case of an individual, gross income includes unemployment compensation.” Furthermore, under the IRC, unemployment compensation includes amounts received from a state (*see* IRC [26 USC] § 85 [b]). Thus, the total amount of unemployment compensation received by petitioner is properly included as income in her New York State tax calculation (*see* Tax Law §§ 611 [a]; 612 [a]).

The American Rescue Plan Act of 2021 (Pub L 117-2, 135 US Stat 4 [117th Cong. Mar. 11, 2021] [American Rescue Plan Act of 2021], amdg 20 USC § 1094 [a] [24]) the IRC by providing relief to individuals who received unemployment compensation in 2020, by excluding up to \$10,200.00 of such compensation from their gross income if their federal adjusted gross income was less than \$150,000.00 (*see* IRC [26 USC] § 85 [c] [1]). However, section 607 (a) of the Tax Law provides: “for taxable years beginning before January first, two thousand twenty-two, any amendments made to the [IRC] after March first, two thousand twenty shall not apply to this article.” Accordingly, since the relevant limitations of the American Rescue Plan Act of 2021 on the taxation of unemployment compensation were an amendment to the IRC implemented on March 11, 2021, a date which falls after March 1, 2020, such amendments do not impact New York State’s calculation of an individual’s income subject to tax. In this case, petitioner excluded \$10,200.00 of 2020 unemployment compensation from the total taxable income reflected on her 2020 return. The Division correctly determined that all of petitioner’s

2020 unemployment compensation was properly included in the calculation of her taxable income for State purposes.

Although petitioner used tax preparation software to prepare her 2020 return, and petitioner deferred to the software to make the determination of how much of her unemployment compensation was taxable, it is noted that taxpayers are ultimately responsible for the accuracy of their returns filed. It is noted that in this case, no penalties were imposed for the error made.

C. Petitioner questions whether the Division gave her credit for the \$391.00 electronic funds payment made with her 2020 return. The record reflects that petitioner's \$391.00 electronic funds payment made with her 2020 return was included within the \$1,939.00 of total 2020 tax payments made and refundable credits received by petitioner (*see* finding of fact 2) and used to reduce the revised tax amount due of \$2,950.00, as reflected on the April 21, 2022 statement, resulting in taxes due of \$1,011.00 (\$2,950.00 less \$1,939.00) (*see* finding of fact 6). Ultimately, the taxes due of \$1,011.00 was further reduced by the Division's recalculation and increase of the 2020 New York City school tax credits available to petitioner of \$23.00, resulting in additional taxes due of \$988.00 (\$1,011.00 - \$23.00) (*see id.*) The June 7, 2022, notice of deficiency issued to petitioner was for the remaining additional tax amount due of \$988.00, plus interest (*see* finding of fact 7). Accordingly, petitioner was given full credit for the \$391.00 electronic funds payment she made with her 2020 return.

D. The petition of Farrah P. Bell is denied and the notice of deficiency, dated June 7, 2022, is sustained.

DATED: Albany, New York
June 4, 2026

/s/ Nicholas A. Behuniak
ADMINISTRATIVE LAW JUDGE