STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition of **THE REDEEMED CHRISTIAN CHURCH OF GOD, CHAPEL OF HOPE** for Redetermination of a Deficiency or for Refund of Mortgage Recording Tax under Article 11 of the Tax Law with Reference to an Instrument Recorded on October 12, 2018.	:	DETERMINATION DTA NO. 851314

Petitioner, The Redeemed Christian Church of God, Chapel of Hope, filed a petition for redetermination of a deficiency or for refund of mortgage recording tax under article 11 of the Tax Law with reference to an instrument recorded on October 12, 2018.

The Division of Taxation, by its representative, Amanda Hiller, Esq. (Kaitlyn Smith, Esq., of counsel), brought a motion, dated July 20, 2026, seeking an order dismissing the petition or, in the alternative, summary determination in its favor in the above-referenced matter pursuant to sections 3000.5 and 3000.9 (a) and (b) of the Rules of Practice and Procedure of the Tax Appeals Tribunal. Petitioner, appearing by Pastor Adebisi Oyesile, did not respond to the Division of Taxation's motion by August 19, 2026, which date commenced the 90-day period for the issuance of this determination.

Based upon the motion papers, affirmation, affidavit and documents submitted therewith, and all pleadings and documents submitted in connection with this matter, Alexander Chu-Fong, Administrative Law Judge, renders the following determination.

ISSUE

Whether petitioner established that the Division of Taxation improperly denied its claim for refund of mortgage recording tax as untimely filed.

FINDINGS OF FACT

1. On January 22, 2007, petitioner, The Redeemed Christian Church of God, Chapel of Hope, is a religious corporation under article 10 of the New York State Religious Corporation Law. On September 7, 2016, and May 26, 2020, the Division of Taxation (Division) issued to petitioner separate forms ST-119, exempt organization certificate, each bearing the same certificate number, EX 265343.

2. On October 12, 2018, petitioner paid $21,000.00 in mortgage recording tax for a property located in Kings County, New York.[1]

3. On July 6, 2024, petitioner filed form MT-15.1, mortgage recording tax claim for refund, requesting a refund of the aforementioned $21,000.00 payment on the basis that petitioner is an exempt entity.

4. The Division reviewed the form MT-15.1 filed by petitioner and concluded that the length of time between when petitioner paid the mortgage recording tax and when it filed the form MT-15.1 requesting the refund was beyond the two-year statute of limitations for claiming a refund and, therefore, late filed.

5. On August 5, 2024, the Division issued to petitioner a refund claim determination notice denying the refund in full on the basis that the request was not timely filed within the applicable period of limitations.

[1] On the recording and endorsement cover page, the New York City Department of Finance abbreviated petitioner's name to "THE REDEEMED CHRISTIAN CHURCH OF GOD (CHAPEL OF HO)."

6. On October 21, 2024, petitioner timely filed a petition challenging the refund claim determination notice.

7. The Division, in turn, filed the subject motion seeking dismissal of the petition or, in the alternative, summary determination in its favor on the premise that, regardless of the basis of the sought-after refund, the claim cannot be granted because it was not filed within two years from the date of payment and, therefore, is barred by operation of law.

CONCLUSIONS OF LAW

A. As noted, the Division brings a motion to dismiss the petition under section 3000.9 (a) of the Rules of Practice and Procedure of the Tax Appeals Tribunal (Rules) or, in the alternative, a motion for summary determination under section 3000.9 (b). As the petition in this matter was timely filed, the Division of Tax Appeals has jurisdiction over the petition. Accordingly, a motion for summary determination under section 3000.9 (b) of the Rules is the proper vehicle to consider the timeliness of petitioner's refund request. This determination shall address the instant motion as such.

B. A motion for summary determination "shall be 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" (20 NYCRR 3000.9 [b] [1]).

C. Section 3000.9 (c) of the 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 (***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).

D. Petitioner did not respond to the Division's motion. Accordingly, it is deemed to have conceded that no question of fact requiring a hearing exists (***see Kuehne & Nagel v Baiden***, 36 NY2d 539, 544 [1975]; ***John William Costello Assoc. v Standard Metals Corp.***, 99 AD2d 227, 229 [1st Dept 1984], ***appeal dismissed*** 62 NY2d 942 [1984]).

E. Tax Law § 263 (1) (a) provides that no refund of tax paid under Tax Law article 11 (tax on mortgages) shall be allowed unless an application for refund is made within two years from the time the erroneous payment of tax was received. Here, petitioner paid the tax on October 12, 2018. Petitioner filed its claim for a refund of mortgage recording tax on July 6, 2024. As the claim was filed more than two years after the tax was paid, such claim must be denied as untimely as a matter of law. Accordingly, with no dispute as to the facts and no basis in law upon which to grant petitioner's claim, summary determination must be granted in the Division's favor.

F. The Division of Taxation's motion for summary determination is granted, the petition of The Redeemed Christian Church of God, Chapel of Hope, is denied and the refund claim determination notice, dated August 5, 2024, is sustained.

DATED: Albany, New York
November 12, 2026

/s/ Alexander Chu Fong
ADMINISTRATIVE LAW JUDGE