

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :
of :
SEAN C. AND ANGELA M. DOWDELL : DETERMINATION
DTA NO. 831027
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 2020. :

Petitioners, Sean C. and Angela M. Dowdell, 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 2020.

A formal hearing by videoconference was held before Kevin R. Law, Administrative Law Judge, on March 6, 2024, with all briefs to be submitted by May 31, 2024, which date commenced the six-month period for the issuance of this determination. Petitioners appeared pro se by Sean C. Dowdell. The Division of Taxation appeared by Amanda Hiller, Esq. (Colleen McMahon, Esq., of counsel).

ISSUE

Whether petitioners have established that the Division of Taxation improperly asserted tax on unemployment compensation alleged to have been received by petitioner Sean Dowdell.

FINDINGS OF FACT

1. On March 19, 2021, petitioners, Sean C. and Angela M. Dowdell,¹ electronically filed a 2020 New York State resident income tax return, form IT-201 (the return), upon which

¹ Unless otherwise indicated, all references to petitioner are to petitioner Sean C. Dowdell.

they reported wage income of \$52,617.00, taxable interest income of \$324.00, and ordinary dividends of \$368.00. The return also claimed a business loss of \$1,012.00 and a capital loss of \$1,480.00. Petitioners did not report any unemployment compensation on line 14 of the return.

2. On December 29, 2021, the Division issued to petitioners a statement of proposed audit change, bearing assessment identification number L-054987677, for tax year 2020 proposing tax in the amount of \$1,166.00, plus interest (statement). The statement explained, in relevant part, that:

“There is a discrepancy between our records and the amount of Unemployment Compensation you reported on your New York State 2020 Income Tax return. As a result, we changed your federal adjusted gross income to include the Unemployment Compensation you received from New York State. We used the amount that the New York State Department of Labor reported to us on Form 1099-G.

The total amount of Unemployment Compensation you received is taxable to New York State under New York State Tax Law. While you may be eligible to exclude a portion of your Unemployment Compensation on your federal tax return, there is no exclusion for New York State.

If you do not agree with the amount of Unemployment Compensation reported to us, you should get a copy of your 1099-G. Go to the New York State Department of Labor’s 1099-G website at [web address]. Follow the instructions on that page to get a copy of your 1099-G.

That website also has a section labeled ‘Disagree with your 1099-G information?’ From that section, you can get a form to fill out and send to the Department of Labor explaining why you think the 1099-G is not correct. If you get a corrected 1099-G from the Department of Labor, send us a copy of the corrected Form 1099-G.

If you believe you may be the victim of Unemployment Compensation fraud or identity theft, contact the Department of Labor at <https://dol.ny.gov/report-fraud>, and then send us a copy of the corrected Form 1099-G.”

The statement recomputed petitioners' 2020 New York State tax liability by including \$19,462.00 of unemployment compensation in petitioners' income, resulting in income tax due of \$1,166.00.

3. On June 6, 2022, the Division issued a notice of deficiency, notice number L-054987677, asserting tax and interest consistent with the statement.

4. At the hearing in this matter, petitioner testified that he did not recall receiving any unemployment benefits during 2020, but acknowledged that he had applied for unemployment compensation during 2020 and did not recall receiving the same. Petitioner stated that he attempted to log into his New York State Department of Labor (NYSDOL) account, but was locked out of it and was unable to speak with anyone concerning his claim that he never received unemployment benefits. Petitioners did not submit any documents into evidence at the hearing.

CONCLUSIONS OF LAW

A. When the Division issues a notice of deficiency to a taxpayer, a presumption of correctness attaches to the notice, and the burden of proof is on the taxpayer to demonstrate, by clear and convincing evidence, that the deficiency assessment is erroneous (*see Matter of Suburban Restoration Co. v Tax Appeals Trib.* 299 AD2d 751, 752 [3d Dept 2002]; *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 Division does not bear the burden of demonstrating the propriety of the deficiency (*see Matter of Scarpulla v State Tax Commn.*, 120 AD2d 842, 843 [3d Dept 1986]).

The Division's source for the dollar amount of unemployment compensation petitioner Sean Dowdell received in 2020 came directly from the NYSDOL. Other than petitioners' unsubstantiated claims, petitioners presented no evidence that he did not receive 2020

unemployment compensation, nor did they challenge the information provided by the NYSDOL in the appropriate manner (*see* finding of fact 2). As such, petitioners have not met their burden of establishing that the notice was incorrect (*see* Tax Law § 689 [e]; *see also* 20 NYCRR 3000.15 [d] [5]).

B. The petition of Sean C. and Angela M. Dowdell is denied, and the notice of deficiency, dated June 6, 2022, is sustained.

DATED: Albany, New York
November 21, 2024

/s/ Kevin R. Law
ADMINISTRATIVE LAW JUDGE