

STATE OF NEW YORK

TAX APPEALS TRIBUNAL

In the Matter of the Petition	:	
of	:	
RICHARD ELDREDGE	:	DECISION
	:	DTA NO. 831318
for Revision of a Determination or for Refund	:	
of Sales and Use Taxes under Articles 28 and	:	
29 of the Tax Law for the Periods March 1, 2019	:	
through May 31, 2022.	:	

Petitioner, Richard Eldredge, filed an exception to the determination of the Supervising Administrative Law Judge issued on April 24, 2025. Petitioner’s exception was received by the Secretary to the Tax Appeals Tribunal on June 4, 2025, eight days past the due date to file the exception. On July 3, 2025, the Tax Appeals Tribunal (Tribunal) issued a notice of intent to dismiss exception (notice of intent) on the ground that petitioner’s exception was not timely filed. Neither party filed a response to the notice of intent. Petitioner’s request for oral argument was denied. Petitioner appeared by Anthony Bonelli, EA. The Division of Taxation appeared by Amanda Hiller, Esq. (Mary Ellen Ladouceur, Deputy Counsel).

On its own motion, after reviewing the entire record in this matter, the Tax Appeals Tribunal renders the following decision.

ISSUE

Whether petitioner timely filed an exception to the determination of the Supervising Administrative Law Judge in this matter.

FINDINGS OF FACT

We find the following facts.

1. The determination of the Administrative Law Judge, mailed via certified mail to petitioner's last known address on April 24, 2025, was returned to the Division of Tax Appeals on June 6, 2025 as "unclaimed." The determination was remailed to the same address of petitioner by regular mail on June 18, 2025.

2. Petitioner's exception to the determination dismissing the petition was received by the Secretary to the Tax Appeals Tribunal on June 6, 2025. The envelope containing the exception reflects a United States Postal Service (USPS) postmark of June 4, 2025 and contained the same last known address of petitioner used by both the Division of Tax Appeals and the Tribunal.

3. On July 3, 2025, the Tribunal issued a notice of intent to petitioner on the ground that petitioner's exception was not timely filed. The envelope containing the copy of the notice of intent mailed to petitioner was returned to the Tribunal on August 26, 2025, and marked as "unclaimed." A *copy* of the notice of intent was then mailed to petitioner at the same address by first class mail which was not returned to the Tribunal.

OPINION

An exception, or an application for an extension of time to file an exception, must be filed with the Tribunal within 30 days after the giving of notice of the determination of the Administrative Law Judge (Tax Law § 2006 [7]). The Tribunal may not consider the merits of an exception filed beyond the 30-day time limitation or, where an extension has been granted, such extended limitations period (*id.*; *see e.g. Matter of Quinones*, Tax Appeals Tribunal, May 8, 2018).

The giving of notice requirement in Tax Law § 2006 (7) is met by mailing a determination in accordance 20 NYCRR 3000.23 [a]. Under that provision, a determination must be enclosed in a post-paid properly addressed wrapper and mailed using certified or

registered USPS mail (*id.*). Properly addressed in this context means the petitioner's last known address as indicated in the records of the Division of Tax Appeals (*Matter of Harel*, Tax Appeals Tribunal, April 27, 2023). Assuming compliance with 20 NYCRR 3000.23 (a), the 30-day limitations period to file an exception begins to run from the date of mailing of the determination.

The Supervising Administrative Law Judge's determination dismissing the petition was properly mailed to petitioner by certified mail on April 24, 2025. As such, and accounting for a weekend day and a holiday day, the exception to the determination of the Administrative Law Judge, or an application for an extension of time to file an exception was due to be filed with the Tribunal on or before May 27, 2025 (Tax Law § 2006 [7]; 20 NYCRR 3000.17 [a] [1]; *see also* General Construction Law § 25-a).

Petitioner's exception was received by the Tribunal on June 6, 2025, with a deemed filing date of June 4, 2025 (the date of the USPS postmark stamped on its envelope). Therefore, petitioner's exception was not timely filed as required by Tax Law § 2006 (7), and this Tribunal lacks jurisdiction to consider the matter (*see Matter of Kofman*, Tax Appeals Tribunal, February 1, 2024; *see also Matter of Hassan*, Tax Appeals Tribunal, March 25, 2004).

It is noted that after the period for correction and supplementation of a petition had passed, and after a determination was issued dismissing this matter, petitioner appended a copy of a statutory notice that had not been submitted to the Supervising Administrative Law Judge. This notice, if issued on the date indicated, appears to raise a timeliness basis for dismissing the initial petition. However, as the matter before us is limited to the timeliness of the exception filed with the Tribunal, and we find that such filing was untimely, the exception is therefore denied.

Accordingly, it is ORDERED, ADJUDGED and DECREED that:

On the Tax Appeals Tribunal's own motion, the exception of petitioner, Richard Eldredge is dismissed as of this date.

DATED: Albany, New York
January 30, 2026

/s/ Jonathan S. Kaiman
Jonathan S. Kaiman
President

/s/ Cynthia M. Monaco
Cynthia M. Monaco
Commissioner

/s/ Kevin A. Cahill
Kevin A. Cahill
Commissioner