STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition of **CRAIG E. TAYLOR, JR.** 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.	:	DETERMINATION DTA NO. 850038

Petitioner, Craig E. Taylor, Jr., 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 Alexander Chu-Fong, Administrative Law Judge, on May 2, 2024, with all briefs due by October 4, 2024, 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).

ISSUE

Whether petitioner established that the Division of Taxation improperly disallowed his claimed business loss for the year 2020.

FINDINGS OF FACT

1. Petitioner, Craig E. Taylor, Jr., filed a New York State resident income tax return, form IT-201, for the tax year 2020 (2020 return). Petitioner reported wage income in the amount of $2,700.00, business loss in the amount of $17,041.00, and unemployment compensation in the

amount of $23,474.00. The 2020 return reflected petitioner's New York adjusted gross income in the amount of $9,133.00.

2. Petitioner attached a federal schedule C, profit or loss from business, to his 2020 return. The schedule C reported information about petitioner's business, a "travel agency" business called "ONLY LOVE TRAVEL CLUB LLC" (OLTC). On the schedule C, petitioner reported gross receipts of $3,209.00, total expenses of $20,250.00 and a business loss of $17,041.00.

3. The Division of Taxation (Division) selected petitioner's 2020 return for review, assigning it audit case ID X-189507408. On March 23, 2021, the Division sent petitioner a request for information (request), asking for additional documentation regarding his claimed business loss, including bills, receipts and statements supporting the business' earned income and expenses paid during tax year 2020.

4. Petitioner did not respond to the request.

5. On November 5, 2021, the Division sent petitioner a statement of proposed audit change (statement) that stated as follows:

> "You did not reply to our Request for Information with copies of receipts, cancelled checks and other documentation to substantiate the business income or loss claimed on your 2020 New York State personal income tax return; therefore, the business income or loss ha[s] been disallowed. Your return has been recalculated based on information available to us."

The statement includes a computation section that recomputes the 2020 return by disallowing the claimed business loss. As a result, for that year, petitioner's New York adjusted gross income was recomputed to $26,174.00. The statement indicates that the Division calculated additional tax due in the amount of $1,285.00, plus interest, for 2020.

6. On December 22, 2021, the Division issued to petitioner a notice of deficiency (notice), bearing assessment number L-054600236, asserting $1,285.00 due in additional tax, plus interest.

7. On January 28, 2022, petitioner filed a timely petition with the Division of Tax Appeals challenging the notice.

8. At the hearing, petitioner testified about OLTC. OLTC solicited customers for cultural tours to impoverished countries. During the tours, the participants toured cultural and historical sites and volunteered their services in the visited country. Customers paid for all of their costs, which included flights, accommodations and all activities.

9. In 2020, OLTC offered a trip scheduled to Guatemala for March 15th. Petitioner explained that, three days prior, the airlines had cancelled his customers' flights. The airlines disputed refunding the cost of the flights. Petitioner personally refunded his customers. He explained that, at the time of the hearing, the airlines had not reimbursed him for those cancelled flights. Petitioner stated that these refunds resulted in the claimed loss for 2020.

10. At the conclusion of the hearing, the record remained open for petitioner to submit evidence substantiating the claimed expenses, including receipts and any other business records pertaining to the 2020 refunds that petitioner paid to his customers. On May 3, 2024, petitioner provided the Division with an email and two pages corresponding to a "Trip.com" e-receipt and an itinerary for one individual's March 15, 2020, flight to Guatemala. The receipt indicated a cost of $385.85. By letter, dated June 24, 2024, the Division forwarded this submission to the undersigned. The two pages and the email did not indicate that OLTC paid for the flight or that OLTC issued a refund to the individual for the cost. Petitioner did not submit any other records pertaining to any of the other expenses listed on the schedule C.

CONCLUSIONS OF LAW

A. A presumption of correctness attaches to a properly issued notice of deficiency and petitioner bears the burden of proving, by clear and convincing evidence, that the deficiency is erroneous (***see Matter of Mayo***, Tax Appeals Tribunal, March 9, 2017, ***confirmed*** 172 AD3d 1554 [3d Dept 2019], ***lv denied*** 34 NY3d 1140 [2020], ***rearg denied*** 35 NY3d 1005 [2020]; ***Matter of Gilmartin v Tax Appeals Trib.***, 31 AD3d 1008, 1010 [3d Dept 2006]; Tax Law § 689 [e]; 20 NYCRR 3000.15 [d] [5]; ***see also Matter of Leogrande v Tax Appeals Trib.***, 187 AD2d 768, 769 [3d Dept 1992], ***lv denied*** 81 NY2d 704 [1993]).

B. In order to establish that the Division erred in denying his claimed business loss, petitioner has the burden of substantiating the claimed expenses and their amounts (***see*** Tax Law §§ 658 [a]; 689 [e]; 20 NYCRR 158.1 [a]; ***Matter of Geringer***, Tax Appeals Tribunal, June 2, 2016; ***Matter of Goode***, Tax Appeals Tribunal, October 17, 2013). Herein, petitioner's schedule C provided various amounts and descriptions for the expenses pertaining to OLTC (***see*** finding of fact 2). At the hearing, petitioner described additional expenses as refunds for cancelled March 2020 flights for customers of OLTC (***see*** finding of fact 9). Tax Law § 658 (a) required petitioner to maintain records substantiating both the expenses claimed on his schedule C, as well as the those claimed at the hearing.

C. Petitioner has not met this burden in this case. While he provided credible testimony at the hearing, petitioner did not adduce documentation substantiating any of the claimed expenses. Petitioner provided information related to a single customer in the form of an e-receipt from Trip.com in the amount of $385.85. However, the submission does not identify the flight as an expense incurred by OLTC, or that it issued the customer a refund for this amount. As the record contains no other evidence on this point, petitioner failed to carry his burden of

substantiating the fact and amount of the claimed expenses (***see*** Tax Law § 658 [a]; 20 NYCRR 158.1 [a]). Therefore, it must be concluded that he failed to establish that the Division erred in denying the claimed loss.

D. The petition of Craig E. Taylor, Jr., is denied, and the notice of deficiency, dated December 22, 2021, is sustained.

DATED: Albany, New York
February 13, 2025

/s/ Alexander Chu-Fong
ADMINISTRATIVE LAW JUDGE