

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
WANE M. THOMPSON	:	ORDER
	:	DTA NO. 830354
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 2019.	:	

Petitioner, Wane M. Thompson, 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 2019.

A small claims hearing by videoconference was scheduled before Presiding Officer Dylan V. Reid on Wednesday, October 8, 2025, at 2:00 p.m. Petitioner failed to appear, and a default determination was duly issued on January 29, 2026.

Petitioner, appearing pro se, made a written application, filed on March 10, 2026, that the default determination be vacated pursuant to 20 NYCRR 3000.13 (d) (3).¹ The Division of Taxation, by its representative, Amanda Hiller, Esq. (Jennifer L. Hink-Brennan, Esq., of counsel), did not file a response by June 29, 2026, which date commenced the 90-day period for the issuance of this order.

¹ Although petitioner filed his application with the Division of Tax Appeals on March 10, 2026, he failed to send a copy of his application to the Division of Taxation. Accordingly, the Division of Tax Appeals sent a copy of the application to the Division of Taxation on May 29, 2026.

Based upon a review of the entire case file in this matter, Donna M. Gardiner, Supervising Administrative Law Judge, renders the following order.

ISSUE

Whether the default determination issued in this matter should be vacated.

FINDINGS OF FACT

1. On March 17, 2021, petitioner, Wane M. Thompson, filed a petition with the Division of Tax Appeals protesting a notice and demand for payment of tax due, bearing assessment number L-051912064, dated January 3, 2021, for tax year 2019.

2. Petitioner listed his address as “97-12 222nd St] Queens Village NY 11429” on his petition.

3. On June 13, 2025, a notice of hearing was issued to petitioner at his address listed on the petition that scheduled the small claims hearing in the above-captioned matter for July 30, 2025, at 3:00 p.m., at the New York State Department of Public Services, 90 Church Street, 4th Floor, New York, New York 10007-2919.

4. On July 16, 2025, petitioner contacted the Hearing Support Unit to request that the hearing be held by videoconference. By correspondence, dated July 16, 2026, petitioner’s request was granted and he was advised that the hearing would be rescheduled for the Fall of 2025. Moreover, petitioner was informed that a new hearing notice would be sent that set forth the new date and time as well as instructions on how to participate in the virtual hearing.

5. On August 18, 2025, a notice of hearing was issued to petitioner at his address listed on the petition that scheduled the small claims hearing for October 8, 2025, at 2:00 p.m., by videoconference. A copy of the notice of hearing was simultaneously sent to the Division of Taxation (Division).

6. On August 22, 2025, Presiding Officer Reid sent correspondence to the parties outlining the schedule for the submission of documents for the virtual hearing scheduled for October 8, 2025.

7. Petitioner did not respond to the notice of hearing and did not submit any documents to Presiding Officer Reid.

8. On Wednesday, October 8, 2025, Presiding Officer Reid commenced a small claims hearing as scheduled in the *Matter of Wane M. Thompson*. The Division appeared by its representative, John Verba. Petitioner did not appear at the hearing. Additionally, petitioner did not submit a written request for an adjournment of the hearing. Consequently, the Division's representative moved that petitioner be held in default.

9. On January 29, 2026, Presiding Officer Reid issued a default determination against petitioner, denying the petition in this matter.

10. On March 10, 2026, petitioner filed an application to vacate the default determination, from the same address listed in the petition. In his application, petitioner acknowledged receipt of the notice of hearing, but he stated that an oversight occurred. Petitioner failed to provide any explanation or documentation regarding the oversight. Additionally, petitioner failed to submit any documentation that addressed the merits of his case.²

11. The Division did not respond to petitioner's application to vacate the default determination.

² Petitioner also sent another letter to the Division of Tax Appeals in relation to his application on March 25, 2026. The information in the letter was either similar to the application or not relevant to the issue.

CONCLUSIONS OF LAW

A. As provided in the Rules of Practice and Procedure of the Tax Appeals Tribunal (Rules):

“[i]n the event a party or the party’s representative does not appear at a scheduled hearing and an adjournment has not been granted, the presiding officer shall, on his or her own motion or on the motion of the other party, render a default determination against the party failing to appear” (20 NYCRR 3000.13 [d] [2]).

The Rules further provide that, “[u]pon written application to the supervising administrative law judge, a default determination may be vacated where the party shows an excuse for the default and a meritorious case” (20 NYCRR 3000.13 [d] [3]).

B. Petitioner did not appear at the scheduled hearing or obtain an adjournment.

Therefore, the presiding officer correctly rendered a default determination pursuant to 20 NYCRR 3000.13 (d) (2) (*see Matter of Hotaki*, Tax Appeals Tribunal, December 14, 2006; *Matter of Zavalla*, Tax Appeals Tribunal, August 31, 1995).

C. Once the default determination was issued, it was incumbent upon petitioner to show an acceptable excuse for not attending the hearing and that he has a meritorious case (*see* 20 NYCRR 3000.13 [d] [3]; *Matter of Poindexter*, Tax Appeals Tribunal, September 7, 2006; *Matter of Zavalla*). Petitioner merely stated that an oversight occurred without further explanation. Petitioner acknowledged in his application that he was aware of the date and time of the small claims hearing in this matter. Therefore, petitioner failed to meet his burden of proof and, as such, petitioner has not demonstrated an acceptable excuse for his absence at the hearing (*see Matter of Sun*, Tax Appeals Tribunal, April 11, 2023).

D. Furthermore, petitioner has not established a meritorious case. “In order to meet the meritorious case criterion for vacatur, petitioner must make a prima facie showing of legal merit, and may not rely on conclusory statements unsupported by the facts” (*Matter of Gordon*, Tax

Appeals Tribunal, January 29, 2015, citing *Matter of Morano's Jewelers of Fifth Ave.*, Tax Appeals Tribunal, May 4, 1989). Petitioner failed to provide any evidence to meet his burden of establishing a meritorious case. As a result, petitioner's application fails on this prong as well.

E. The application of Wane M. Thompson to vacate the default determination, dated March 10, 2026, is denied.

DATED: Albany, New York
September 24, 2026

/s/ Donna M. Gardiner
SUPERVISING ADMINISTRATIVE LAW JUDGE