

STATE OF NEW YORK

TAX APPEALS TRIBUNAL

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In the Matter of the Petition	:	
of	:	
<b>J. DAVID GOLUB</b>	:	ORDER
	:	DTA NO. 819552
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	:	
Years 1991, 1992 and 2001.	:	

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On October 5, 2005, petitioner J. David Golub, P.O. Box 131721, Staten Island, New York 10313, made a motion to the Tax Appeals Tribunal (hereinafter the "Tribunal") for reargument of the Tribunal's decision in this matter dated September 8, 2005. Petitioner appeared *pro se*. The Division of Taxation appeared by Christopher C. O'Brien, Esq. (Margaret T. Neri, Esq., of counsel).

NOW, upon reading the September 30, 2005 letter of petitioner in support of the motion to reargue and the October 31, 2005 letter of the Division of Taxation in opposition to the motion, and due deliberation having been had thereon, the Tax Appeals Tribunal renders the following order.

***FINDINGS OF FACT***

We find the following facts.

In ***Matter of Golub*** (Tax Appeals Tribunal, September 8, 2005), after reviewing the arguments presented on exception, the record of the proceeding before the Administrative Law

Judge and the application to vacate the default determination of the Administrative Law Judge, this Tribunal affirmed the Chief Administrative Law Judge's order denying petitioner's application to vacate the default determination entered against him. We decided that the Chief Administrative Law Judge had accurately and adequately addressed the issues presented to him and correctly applied the relevant law to the facts of this case. We found that the record clearly indicated that petitioner had failed to appear at the scheduled hearing, and, in his application to vacate the default determination against him, petitioner failed to present an acceptable excuse for his failure to appear and he failed to supply evidence of a meritorious case.

### ***OPINION***

A motion to reargue is based on no new proof, seeking only to convince the court that it was wrong and ought to change its mind (Siegel, NY Prac § 254, at 383 [2d ed]). There is no statutory authority for this Tribunal to reconsider its decisions and, therefore, our authority to do so as a quasi-judicial body is limited (*Matter of Trieu*, Tax Appeals Tribunal, June 2, 1994, **confirmed** *Matter of Trieu v. Tax Appeals Tribunal*, 222 AD2d 743, 634 NYS2d 878, **appeal dismissed** 87 NY2d 1054, 644 NYS2d 146; *Matter of Jenkins Covington, N.Y. v. Tax Appeals Tribunal*, 195 AD2d 625, 600 NYS2d 281, **lv denied** 82 NY2d 664, 610 NYS2d 151).

A motion to reargue is intended to affect a prior order or decision.

A motion for reargument, addressed to the discretion of the court, is designed to afford a party an opportunity to establish that the court overlooked or misapprehended the relevant facts, or misapplied any controlling principle of law. Its purpose is not to serve as a vehicle to permit the unsuccessful party to argue once again the very questions previously decided (*Foley v. Roche*, 68 AD2d 558, 418 NYS2d 588, 593, **lv denied** 56 NY2d 507, 453 NYS2d 1025).

Our decision in *Matter of Golub (supra)* was reached after a thorough review of the entire record in the matter and the relevant law. The motion before us indicates no circumstances which would allow us to reconsider this decision.

Accordingly, it is ORDERED, ADJUDGED and DECREED that the motion for reargument of J. David Golub be, and the same hereby is, denied.

DATED: Troy, New York  
January 12, 2006

/s/Charles H. Nesbitt

Charles H. Nesbitt  
President

/s/Carroll R. Jenkins

Carroll R. Jenkins  
Commissioner

/s/Robert J. McDermott

Robert J. McDermott  
Commissioner