

STATE OF NEW YORK  
DIVISION OF TAX APPEALS

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In the Matter of the Petition	:	
of	:	
WANTAGH AMC/JEEP, INC.	:	SHORT FORM
AND ARTHUR WARNER, AS OFFICER	:	ORDER
	:	DTA #810144
for Revision of a Determination or for Refund	:	
of Sales and Use Taxes under Articles 28 and 29	:	
of the Tax Law for the Period September 1, 1983	:	
through August 31, 1985.	:	

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Upon petitioners' Notice of Motion for an Order for Determination on Default, dated April 6, 1992, on the basis that the Division of Taxation's Answer was filed more than 60 days after the acknowledgement that the petition was received in proper form, and there being no opposition to said motion, it is ordered that:

Petitioners' Motion for an Order for Determination on Default pursuant to 20 NYCRR 3000.4(a)(4) is denied without prejudice.

The Regulation at 20 NYCRR 3000.4(a)(4) states:

"Where the division of taxation fails to answer within the prescribed time, the petitioner may make a motion to the tribunal on notice to the Law Bureau, for a determination on default. The administrative law judge designated by the tribunal to review the motion shall either grant that motion and issue a default determination, or shall determine such other appropriate relief that is warranted." (Emphasis added.)

Petitioners have not demonstrated that the Law Bureau was on notice of their motion. The motion papers supplied by petitioners indicate that a copy of the Notice of Motion was mailed only to the New York State Division of Tax Appeals. Therefore, petitioners are not in

compliance with 20 NYCRR 3000.4(a)(4).

DATED: Troy, New York

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ASSISTANT CHIEF  
ADMINISTRATIVE LAW JUDGE