

STATE OF NEW YORK

TAX APPEALS TRIBUNAL

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In the Matter of the Petition :  
of :  
**AMINATA DIOP** : DECISION  
for Redetermination of a Deficiency or for Refund : DTA NO. 825671  
of Personal Income Taxes under Article 22 of the :  
Tax Law for the Year 2009. :

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Petitioner, Aminata Diop, filed an exception to the order of the Administrative Law Judge issued on December 5, 2013. Petitioner appeared *pro se*. The Division of Taxation appeared by Amanda Hiller, Esq. (Mark Volk, Esq., of counsel). On January 31, 2014, the Tax Appeals Tribunal issued a Notice of Intent to Dismiss Exception on the ground that petitioner did not file an exception in proper form.

On its own motion, after reviewing the order, and the exception, the Tax Appeals Tribunal renders the following decision.

***ISSUE***

Whether petitioner properly filed an exception with the Tax Appeals Tribunal following the issuance of the Administrative Law Judge's order, thus giving the Tax Appeals Tribunal jurisdiction to consider the matter.

***FINDINGS OF FACT***

We find the following facts.

The Secretary to the Tax Appeals Tribunal (Tribunal) received a purported exception from petitioner. The purported exception consisted of a first page of the Tribunal's four page exception form (Form TA-14). The only information set forth therein was petitioner's printed name, address, and the DTA number assigned to this matter. The document was not signed.

By letter dated January 31, 2014, the Tribunal acknowledged receipt of petitioner's purported exception and issued a Notice of Intent to Dismiss Exception on the ground that it was not in proper form. The parties were given until March 7, 2014 to respond. Neither party filed a response.

### ***OPINION***

Section 2006 (7) of the Tax Law provides that the Tribunal shall have certain functions, powers and duties. Tax Law 2006 (7) provides, in pertinent part, as follows:

“To provide for a review of the determination of an administrative [sic] law judge if any party to a proceeding conducted before such administrative law judge, within thirty days after the giving of notice of such determination, takes exception to the determination.”

In order for an exception to be deemed in proper form, it must comply with all of the requirements set forth in section 3000.17 of the Tribunal's Rules of Practice and Procedure. The Rules of Practice and Procedure of the Tax Appeals Tribunal require that exceptions contain: the particular findings of fact and conclusions of law with which the party disagrees; the grounds of the exception with references, wherever possible, to the relevant pages of the transcript of hearing and exhibits; and, alternative findings of fact and conclusions of law (Tax Law § 2006 [7]; 20 NYCRR 3000.17 [b]).

The unsigned document filed by petitioner in this matter contained no such information. Furthermore, petitioner failed to respond to the Notice of Intent to Dismiss Exception. As such, there is no properly filed exception before the Tax Appeals Tribunal for it to consider.

Accordingly, it is ORDERED, ADJUDGED and DECREED that:

On the Tax Appeals Tribunal's own motion, the exception of Aminata Diop is dismissed with prejudice as of this date.

DATED: Albany, New York  
August 21, 2014

/s/ Roberta Moseley Nero  
Roberta Moseley Nero  
President

/s/ Charles H. Nesbitt  
Charles H. Nesbitt  
Commissioner

/s/ James H. Tully, Jr.  
James H. Tully, Jr.  
Commissioner