

STATE OF NEW YORK
TAX APPEALS TRIBUNAL

In the Matter of the Petition	:	
of	:	
KATHERINE KHOOLIANG	:	DECISION DTA NO. 831334
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 June 1, 2019 through May 31,	:	
2022.	:	

Petitioner, Katherine Khooliang, filed an exception to the determination of the Supervising Administrative Law Judge issued on September 12, 2024. Petitioner appeared pro se.

Petitioner filed a letter brief in support of the exception. Oral argument was not requested. The six-month period for issuance of this decision began on October 16, 2024, the date that petitioner's exception was received.

After reviewing the entire record in this matter, the Tax Appeals Tribunal renders the following decision.

ISSUE

Whether the Supervising Administrative Law Judge properly dismissed the petition.

FINDINGS OF FACT

We find the following facts.¹

¹ Official notice is being taken of the contents of the file in this matter pursuant to the State Administrative Procedure Act (SAPA) § 306 (4) which provides that "official notice may be taken of all facts of which judicial notice could be taken and of other facts within the specialized knowledge of the agency" (*see Matter of Lawson*, Tax Appeals Tribunal, October 4, 2001, citing SAPA § 306 [4]).

1. Petitioner, Katherine Khooliang, filed a petition on June 6, 2023, in protest of a Notice of Determination (Notice) (assessment ID number L-056859110). The Notice was issued to Team Windows & Building Material Inc. and assessed tax due (including interest and penalties) in the amount of \$445,232.76.²

2. The petition did not include a statutory notice issued in petitioner's name.

3. On August 10, 2023, the Division of Tax Appeals sent a letter to petitioner alerting petitioner to the fact that the petition did not include a copy of an appropriate notice and advising that failure to correct it within 30 days may result in a dismissal. The letter noted that the response to taxpayer inquiry dated February 6, 2023 is not the document that is required. The letter also provided petitioner with the name and telephone number of a Division of Taxation employee to contact if petitioner needed to obtain a copy of the required documents.

4. Petitioner did not cure the deficiencies in the petition set forth in the correspondence dated August 10, 2023.

5. On September 12, 2024, the Supervising Administrative Law Judge issued a determination dismissing the petition with prejudice.

THE DETERMINATION OF THE SUPERVISING ADMINISTRATIVE LAW JUDGE

The Supervising Administrative Law Judge concluded that the petition did not include a statutory notice in petitioner's name, as is required by the Tax Law and the Tax Appeals Tribunal's Rules of Practice and Procedure (Rules). The Supervising Administrative Law Judge further observed that petitioner failed to correct the defect despite having been given the opportunity to do so. Accordingly, pursuant to our Rules, the Supervising Administrative Law

² The petition lists assessment ID L-056875806-5, while the determination file includes a notice of determination addressed to a different taxpayer bearing assessment ID L-056859110.

Judge dismissed the petition with prejudice.

ARGUMENTS ON EXCEPTION

The only argument petitioner raises on exception is that petitioner is in the process of filing forms DTP-911 (sic) and TA-200 and despite her efforts to resolve the matter through mediation, petitioner's appeal was dismissed by the Supervising Administrative Law Judge with prejudice.

OPINION

The only issue on exception is whether the petition was properly filed with the Division of Tax Appeals pursuant to our Rules (*see* 20 NYCRR 3000.3). Pursuant to Tax Law § 2000, the Division of Tax Appeals is "responsible for providing the public with a just system of resolving controversies with [the Division of Taxation] and to ensure that the elements of due process are present with regard to such resolution of controversies" (*Matter of Richardson*, Tax Appeals Tribunal, November 17, 2022, citing Tax Law § 2000). The Division of Tax Appeals is authorized "[t]o provide a hearing as a matter of right, to any petitioner upon such petitioner's request . . . unless a right to such hearing is specifically provided for, modified or denied by another provision of this chapter" (*Matter of Bokaer*, Tax Appeals Tribunal, December 5, 2024, citing Tax Law § 2006 [4]).

Pursuant to 20 NYCRR 3000.3 (a), all proceedings in the Division of Tax Appeals must be commenced by the filing of a petition. 20 NYCRR 3000.3 (b) sets forth the required information that must be included in the petition. Pursuant to 20 NYCRR 3000.3 (b) (1) the petition shall contain petitioner's *name*, address and telephone number (emphasis added). Petitioner is also required to provide a copy of the statutory notice being protested along with the petition (*see* 20 NYCRR 3000.3 [b] [8]). The regulations further provide that when a petition

is not in proper form, and petitioner fails to provide a corrected petition within the time allowed, the Supervising Administrative Law Judge “will issue a determination dismissing the petition” (*Matter of Leslie*, Tax Appeals Tribunal, April 22, 2015, citing 20 NYCRR 3000.3 [d] [2]).

Here, the petition listed the name of petitioner as “Katherine Khooliang,” whereas the attached Notice was issued to a different taxpayer. On August 10, 2023, the Division of Tax Appeals made a written request to petitioner to perfect the petition and requested that petitioner provide a statutory notice issued in petitioner’s name. The letter further provided that the response to taxpayer inquiry dated February 6, 2023 would not suffice. Petitioner, however, failed to cure the deficiencies in the petition. The Supervising Administrative Law Judge issued a determination on September 12, 2024, dismissing the petition with prejudice.

Under our Rules, a petition must include a copy of the statutory notice being protested (20 NYCRR 3000.3 [b] [8]). Based on the foregoing, we find that the Supervising Administrative Law Judge properly dismissed the petition (*see Matter of Leslie*; 20 NYCRR 3000.3 [d] [2]).

Accordingly, it is ORDERED, ADJUDGED and DECREED that:

1. The exception of Katherine Khooliang is denied;
2. The determination of the Supervising Administrative Law Judge is affirmed; and
3. The petition of Katherine Khooliang is dismissed with prejudice.

DATED: Albany, New York
April 10, 2025

/s/ Jonathan S. Kaiman
Jonathan S. Kaiman
President

/s/ Cynthia M. Monaco
Cynthia M. Monaco
Commissioner

/s/ Kevin A. Cahill
Kevin A. Cahill
Commissioner