STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
JOSERAIDA MITCHELL	:	**DETERMINATION**
for Redetermination of a Deficiency or for Refund of New York State Personal Income Tax under Article 22 of the Tax Law for the Years 2008 through 2010.	:	DTA NO. 826177

Pursuant to § 170(3-a)(e) of the Tax Law, the Division of Tax Appeals lacks jurisdiction to consider the merits of a petition filed in excess of ninety (90) days following the issuance of a BCMS conciliation order.

The conciliation order under protest in this matter, CMS No. 251909 was issued to petitioner on July 12, 2013. However, the petition in this matter was not filed with the Division of Tax Appeals until March 14, 2014, or two hundred and forty five (245) days later.

Pursuant to 20 NYCRR 3000.9, the Division of Tax Appeals issued a Notice of Intent to Dismiss Petition on June 19, 2014 informing the parties of the basis for the intended dismissal.

No response having been received from the petitioner as of this date; therefore,

IT IS ORDERED, on the administrative law judge's own motion, that the petition be, and it is hereby, dismissed with prejudice as of this date.

DATED: Albany, New York
November 6, 2014

/s/ Daniel J. Ranalli
Supervising Administrative Law Judge