

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :  
of :  
**MARIANO PEREZ D/B/A** : **DETERMINATION**  
**MI ESFUERZO GROCERY** :  
for Revision of a Determination or for : DTA NO. 826558  
Refund of Cigarette Tax under Article 20 :  
of the Tax Law for the Period Ending :  
July 25, 2012. :

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Pursuant to Tax Law § 2006(4), the Division of Tax Appeals is without jurisdiction to consider the merits of a petition filed in excess of ninety (90) days following the issuance of a statutory notice (*see* Tax Law § 478).

The instant petition appears to have been filed in protest of a Notice of Determination, Assessment No. L-038580233, issued on September 19, 2012. However, the petition was not filed until October 3, 2014, or seven hundred forty four (744) days later.

Pursuant to § 3000.9(a)(4) of the Rules of Practice and Procedure of the Tax Appeals Tribunal, the Division of Tax Appeals issued a Notice of Intent to Dismiss Petition on December 8, 2014 informing the parties of the basis for the dismissal.

No response having been received from 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  
March 12, 2015

/s/Daniel J. Ranalli  
Supervising Administrative Law Judge