

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :  
of :  
**FREDERICK RODRIGUEZ** : **DETERMINATION**  
:   
for Redetermination of a Deficiency or for Refund : DTA NO. 827513  
of Personal Income Tax under Article 22 of the :  
Tax Law for the Years 2005 and 2006. :  
\_\_\_\_\_ :

Pursuant to sections 681(b) and 689(b) of the Tax Law, the protest of a statutory notice that has been issued to a taxpayer under Article 22 of the Tax Law is commenced by the timely filing of a petition with the Division of Tax Appeals (20 NYCRR 3000.3[c]). Such petition must include a copy of the statutory notice under protest (*see* 20 NYCRR 3000.3[b][8]). With respect to Article 22 of the Tax Law, this requirement will be satisfied by the petitioner’s provision of a copy of either a notice of deficiency or a refund denial (*see* Tax Law § 681; 20 NYCRR 3000.1[k]). In addition, Tax Law § 173-a(2) specifically provides, inter alia, that a taxpayer is not entitled to a hearing before the Division of Tax Appeals with respect to the issuance of a notice of additional tax due.

The petition in this matter was filed in protest of a Notice of Additional Tax Due, Assessment No. L-031022956-6, issued on November 24, 2008. This notice is insufficient to confer jurisdiction upon the Division of Tax Appeals to consider the merits of the petition.

Pursuant to section 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 May 4, 2016 informing the parties of the basis for the dismissal.

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  
June 16, 2016

/s/ Daniel J. Ranalli  
Supervising Administrative Law Judge