

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :
of :
EXCLUSIVE DOOR COMPANY, INC. :
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 September 1, 2015 through :
November 30, 2015. :

DETERMINATION

DTA NO. 827521

Pursuant to Tax Law § 2006(4), a petition must be filed within ninety (90) days from the date a statutory notice is issued. A notice of adjustment is not a statutory notice. Also, pursuant to § 173-a(3)(c) of the Tax Law, the Division of Tax Appeals lacks jurisdiction to consider the merits of a petition that is filed in protest of a Notice and Demand for Payment of Tax Due.

In this case, petitioner filed a petition in protest of a Notice and Demand dated January 6, 2016 and a subsequent Notice of Adjustment dated January 11, 2016. Since neither a Notice and Demand nor a notice of adjustment are statutory notices, no hearing rights exist to protest these notices, and the Division of Tax Appeals lacks jurisdiction. Therefore, the Division of Tax Appeals is without jurisdiction to consider the merits of this petition.

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
June 2, 2016

/s/ Daniel J. Ranalli
Supervising Administrative Law Judge