

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :
of :
DENIS & BARBRA ABRAMOWITZ : **DETERMINATION**
for Redetermination of a Deficiency or for : DTA NO. 827987
Refund of New York State and New York :
City Personal Income Tax under Article 22 :
of the Tax Law and the New York City :
Administrative Code for the Year 2010. :

Pursuant to §§ 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 a notice of additional tax due or a notice and demand.

The petition in this matter appears to have been filed in protest of a Notice and Demand for Payment of Tax Due, Assessment No. L-037016906-5, issued on December 6, 2011. This notice is insufficient to confer jurisdiction upon the Division of Tax Appeals to consider the merits of the petition.

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 February 3, 2017 informing the parties of the basis for the dismissal.

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

IT IS ORDERED, on the supervising 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
April 6, 2017

/s/ Herbert M. Friedman, Jr.
Supervising Administrative Law Judge