

STATE OF NEW YORK

DIVISION OF TAX APPEALS

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In the Matter of the Petition :  
of :  
**LUIS F. AND SIXTA M. RAMIREZ** : DETERMINATION  
for Redetermination of a Deficiency or for Refund of New : DTA NO. 831152  
York State and New York City Personal Income Tax under :  
Article 22 of the Tax Law and the Administrative Code :  
of the City of New York for the Years 2020 and 2021. :  
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Petitioners, Luis F. and Sixta M. Ramirez, filed a petition for redetermination of a deficiency or for refund of New York State and New York City personal income tax under article 22 of the Tax Law and the Administrative Code of the City of New York for the years 2020 and 2021.

On October 31, 2023, the Division of Tax Appeals issued a notice of intent to dismiss petition to petitioners pursuant to 20 NYCRR 3000.9 (a) (4). The Division of Taxation, appeared by Amanda Hiller, Esq. (Amanda Alteri). Petitioners appeared pro se. The parties were provided an extension of time until January 30, 2024, within which to respond to the notice of intent, which date began the 90-day period for the issuance of this determination. Neither party responded. After due consideration of the documents submitted, Donna M. Gardiner, Supervising Administrative Law Judge, renders the following determination.

***ISSUE***

Whether the Division of Tax Appeals has jurisdiction over the petition.

### ***FINDINGS OF FACT***

1. Petitioners, Luis F. and Sixta M. Ramirez, filed a petition with the Division of Tax Appeals on November 2, 2022.
2. No statutory notice or conciliation order was attached to the petition.
3. On January 17, 2023, the Division of Tax Appeals made a written request to petitioners for a copy of the statutory notice being protested or for a copy of a conciliation order.
4. Petitioners did not provide any statutory notice.
5. On October 31, 2023, the Division of Tax Appeals issued to petitioners a notice of intent to dismiss petition. The notice of intent to dismiss petition stated that the Division of Tax Appeals lacked jurisdiction to review the merits of the petition because it was not in proper form.
6. Neither party responded to the notice of intent to dismiss petition.

### ***CONCLUSIONS OF LAW***

A. The Division of Tax Appeals is a forum of limited jurisdiction (Tax Law § 2008; *Matter of Scharff*, Tax Appeals Tribunal, October 4, 1990, *revd on other grounds sub nom Matter of New York State Dept. of Taxation & Fin. v Tax Appeals Trib.*, 151 Misc 2d 326 [Sup Ct, Albany County 1991]). Its power to adjudicate disputes is exclusively statutory (*id.*). The Division of Tax Appeals is authorized “[t]o provide a hearing as a matter of right, to any petitioner upon such petitioner’s request . . . unless a right to such hearing is specifically provided for, modified or denied by another provision of this chapter” (Tax Law § 2006 [4]).

All proceedings in the Division of Tax Appeals “shall be commenced by the filing of a petition . . . protesting any written notice of the division of taxation which has advised the petitioner of a tax deficiency, a determination of tax due, a denial of a refund or credit

application . . . or any other notice which gives a person a right to a hearing” (Tax Law § 2008 [1]).

B. Pursuant to 20 NYCRR 3000.3 (b) (8), a petition shall contain, “for the sole purpose of establishing the timeliness of the petition, a legible copy of the order of the conciliation conferee if issued; if no such order was previously issued, a legible copy of any other statutory notice being protested.” In this case, no statutory notice was attached.

C. On January 17, 2023, the Division of Tax Appeals made a written request to petitioners for a copy of the statutory notice in protest. Petitioners failed to provide any statutory notice. Where petitioners fail to correct the petition within the time prescribed, the supervising administrative law judge will issue a notice of intent to dismiss petition (*see* 20 NYCRR 3000.3 [d]). Such notice of intent was issued on October 31, 2023. Petitioners failed to respond to the notice of intent.

As petitioners failed to attach a statutory notice contemplated by Tax Law § 2008, the Division of Tax Appeals lacks jurisdiction over the subject matter of the petition and, therefore, dismissal is warranted (*see* 20 NYCRR 3000.3 [d]; 3000.9 [a] [4] [i]; *see also Matter of Richardson*, Tax Appeals Tribunal, November 17, 2022).

D. It is ORDERED, on the motion of the supervising administrative law judge, that the petition is dismissed with prejudice as of this date.

DATED: Albany, New York  
April 11, 2024

/s/ Donna M. Gardiner  
SUPERVISING ADMINISTRATIVE LAW JUDGE