

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :
of :
LISA MARTIN AND DAVID VANDERSTEEN : DETERMINATION
for Redetermination of a Deficiency or for Refund of New : DTA NO. 831403
York State and New York City Personal Income Taxes :
under Article 22 of the Tax Law and the Administrative :
Code of the City of New York for the Year 2021. :
:

Petitioners, Lisa Martin and David Vandersteen, filed a petition for redetermination of a deficiency or for refund of New York State and New York City personal income taxes under article 22 of the Tax Law and the Administrative Code of the City of New York for the year 2021.

On November 28, 2025, the Division of Tax Appeals issued to petitioners a notice of intent to dismiss petition pursuant to 20 NYCRR 3000.9 (a) (4). The Division of Taxation, appearing by Amanda Hiller, Esq. (Maame Yaa Amponsah, Esq., of counsel), submitted a letter in support of the dismissal. Petitioners, appearing by SJ Associates NYC, LLC (Rochelle R. Taylor, CPA), submitted a response by December 29, 2025, which date began the 90-day period for the issuance of this determination.

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, Lisa Martin and David Vandersteen, filed a petition with the Division of Tax Appeals on August 25, 2023.
2. The petition appears to protest a notice bearing case identification number X-190528960, issued to petitioners by the Division of Taxation (Division).
3. The petition did not include a statutory notice.
4. On September 25, 2023, the Division of Tax Appeals made a written request to petitioners for a copy of the statutory notice and a copy of a duly executed power of attorney form authorizing Ms. Taylor to represent them.
5. On October 4, 2023, petitioners' representative submitted a duly executed power of attorney form and a letter, dated May 6, 2022, issued to petitioners by the Division that requested additional information regarding their income tax return filed for tax year 2021.
6. No statutory notice was provided.
7. On November 28, 2025, the Division of Tax Appeals issued to petitioners a notice of intent to dismiss petition. The notice of intent to dismiss petition stated that it appeared the Division of Tax Appeals lacked jurisdiction to review the merits of the petition because it was not in proper form.
8. On December 8, 2025, in response to the notice of intent to dismiss petition, the Division submitted a letter that stated:

“[t]he Division is in receipt of the Notice of Intent to Dismiss the petition in the above referenced matter. As the petition submitted was not in proper form, as required by 20 NYCRR 3000.3 and Tax Law § 2008 because the petitioner[s] neglected to include a copy of the statutory notice or conciliation order issued to petitioner[s,] the Division is in agreement with the proposed dismissal.”
9. On December 17, 2025, petitioners submitted a notice of disallowance, dated

November 8, 2023, issued to them that disallowed a refund claimed in the amount of \$7,407.83.

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 (*Matter of New York State Dept. of Taxation & Fin. v Tax Appeals Trib.*, 151 Misc 2d at 332). 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 a 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 . . . or any other notice which expressly gives a person the 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 September 25, 2023, the Division of Tax Appeals made a written request for petitioners to provide the statutory notice. Petitioners failed to do so. Where petitioner fails to correct the petition within the time prescribed, the supervising administrative law judge will issue a determination dismissing the petition (*see* 20 NYCRR 3000.3 [d] [2]).

As petitioners failed to attach a notice contemplated by Tax Law § 2008 (1), 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] [2]; 3000.9 [a] [4] [i]; *see also Matter of Richardson*, Tax Appeals Tribunal, November 17, 2022).

D. Although petitioners provided a notice of disallowance, dated November 8, 2023, such notice was issued after the petition was filed in this matter. Accordingly, the petition was filed prematurely, and the Division of Tax Appeals is without jurisdiction to consider its merits (*see* Tax Law § 2008 [1]).

E. 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
March 5, 2026

/s/ Donna M. Gardiner
SUPERVISING ADMINISTRATIVE LAW JUDGE