

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :
of :
OMAR DYER : DETERMINATION
for Redetermination of Deficiencies or for : DTA NO. 831497
Refund of New York State Personal Income Tax :
under Article 22 of the Tax Law for the :
Years 2020 and 2021. :
:

Petitioner, Omar Dyer, filed a petition for redetermination of deficiencies or for refund of New York State personal income tax under article 22 of the Tax Law for the years 2020 and 2021.

On January 16, 2026, the Division of Tax Appeals issued a notice of intent to dismiss petition pursuant to 20 NYCRR 3000.9 (a) (4). The Division of Taxation, appearing by Amanda Hiller, Esq. (Maria Oluyeju, Esq., of counsel), submitted a letter in support of the dismissal. Petitioner, appearing pro se, submitted a response by February 17, 2026, which date commenced 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. Petitioner, Omar Dyer, filed a petition with the Division of Tax Appeals on November 27, 2023.

2. The petition appears to protest assessment number L-058621376, but a statutory notice was not included with the petition.

3. On May 22, 2024, the Division of Tax Appeals made a written request to petitioner for a copy of the statutory notice.

4. No statutory notice was provided.

5. On December 5, 2025, petitioner filed a petition with the Division of Tax Appeals in protest of a notice of disallowance for the tax year 2019. The petition was assigned DTA number 852308 and will proceed in due course.

6. On January 16, 2026, the Division of Tax Appeals issued 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.

7. On February 4, 2026, in response to the notice of intent to dismiss petition, the Division of Taxation (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. The petition submitted was not in proper form, as required by 20 NYCRR 3000.3 and Tax Law § 2008 because the petitioner neglected to include a copy of the statutory notice or conciliation order issued to them. The Division is thus in agreement with the proposed dismissal.”

8. On February 6, 2026, petitioner responded that he filed a subsequent petition, on December 5, 2025, in protest of the notice of disallowance issued for the tax year 2019 and that it should not be dismissed. The petition in protest of the notice of disallowance for tax year 2019 has been acknowledged and will proceed in due course. Petitioner did not submit any notices for the tax years 2020 and 2021.

CONCLUSIONS OF LAW

A. The Division of Tax Appeals is a forum of limited jurisdiction (*see* 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 (*see 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 notices for the tax years 2020 and 2021 were attached.

As petitioner 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).

C. The petition in protest of the notice of disallowance for the tax year 2019 has been

acknowledged and will proceed in due course.

D. It is ORDERED, on the motion of the supervising administrative law judge, that the petition is dismissed.

DATED: Albany, New York
May 7, 2026

/s/ Donna M. Gardiner
SUPERVISING ADMINISTRATIVE LAW JUDGE