

STATE OF NEW YORK

DIVISION OF TAX APPEALS

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In the Matter of the Petition	:	
of	:	
<b>YOUGIE IRON WORKS INC.</b>	:	<b>DETERMINATION</b>
	:	<b>DTA NO. 851124</b>
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 March 1, 2018	:	
through February 28, 2022.	:	
	:	

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Petitioner, Yougie Iron Works Inc., filed a petition 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 March 1, 2018 through February 28, 2022.

On June 13, 2025, the Division of Tax Appeals issued to petitioner a notice of intent to dismiss petition pursuant to 20 NYCRR 3000.9 (a) (4). The Division of Taxation, appearing by Amanda Hiller, Esq. (Susan Gelles, Esq., of counsel), submitted a letter in support of the dismissal. Petitioner submitted a response by July 14, 2025, 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, Yougie Iron Works Inc., filed a petition with the Division of Tax Appeals on August 6, 2024.

2. The petition included a copy of a notice and demand for payment of tax due (notice and demand), bearing assessment number L-057395927, issued by the Division of Taxation (Division), dated July 19, 2024.

3. The petition did not include any statutory notice.

4. On June 13, 2025, the Division of Tax Appeals issued to petitioner a notice of intent to dismiss petition. The notice of intent to dismiss petition stated that it appeared that the Division of Tax Appeals lacked jurisdiction to consider the merits of the petition because a notice and demand does not provide hearing rights to a taxpayer.

5. On June 25, 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 Petition, dated June 13, 2025, which intends to dismiss the above-referenced matter for lack of jurisdiction. The Division agrees with the proposed dismissal.”

6. On June 30, 2025, in opposition to the notice of intent to dismiss petition, petitioner argues that the assessments made by the Division do not accurately reflect the taxable income and sales tax of the business. Petitioner requests that the Division of Tax Appeals provide it with the opportunity for a fair review of the facts despite any procedural mistakes that have occurred.

### ***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 and 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 and 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. 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).

D. While the petition included a copy of a notice and demand, this notice is insufficient to confer jurisdiction upon the Division of Tax Appeals to consider the merits of the petition (*see* Tax Law § 173-a [3] [c]; *Matter of Alesi*, Tax Appeals Tribunal, June 9, 2022).

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  
October 9, 2025

/s/ Donna M. Gardiner  
SUPERVISING ADMINISTRATIVE LAW JUDGE