

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :
of :
ROCKWELLS WOLFS LANE, LLC : DETERMINATION
for Revision of Determinations or for Refund of : DTA NO. 851678
Sales and Use Taxes under Articles 28 and 29 :
of the Tax Law for the Period September 1, 2023 :
through May 31, 2024. :
:

Petitioner, Rockwells Wolfs Lane, LLC, filed a petition for revision of determinations or for refund of sales and use taxes under articles 28 and 29 of the Tax Law for the period September 1, 2023 through May 31, 2024.

On February 17, 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. (Andi Falk, Esq., of counsel), submitted a letter in support of the dismissal. Petitioner, appearing by Stephen Robins, did not submit a response by March 19, 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, Rockwells Wolfs Lane, LLC, filed a petition with the Division of Tax Appeals on March 12, 2025.

2. The petition appears to protest three notices and demands for payment of tax due (notices and demands) with assessment numbers L-059489298, L-060074968 and L-060646068, but statutory notices were not included with the petition.

3. On February 17, 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.

4. On March 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 and agrees as the Division of Tax Appeals lacks jurisdiction over the matter. Therefore, the Division is in agreement with the proposed dismissal regarding the Notice and Demand.”

5. Petitioner did not respond to the notice of intent to dismiss petition.

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 (*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.

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. While the petition included copies of notices and demands, these notices are 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).

D. The petition also included copies of response to taxpayer inquiry letters issued to petitioner. However, these types of correspondence from the Division are not statutory documents that provide hearing rights at the Division of Tax Appeals (*see Matter of PC Touch Servs.*, Tax Appeals Tribunal, August 23, 2012).

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

SUPERVISING ADMINISTRATIVE LAW JUDGE