

STATE OF NEW YORK

DIVISION OF TAX APPEALS

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In the Matter of the Petition	:	
of	:	
<b>BLOOMS FLORIST &amp; EVENT DECOR, INC.</b>	:	
for Revision of Determinations or for Refund of Sales and Use Taxes under Articles 28 and 29 of the Tax Law for the Periods December 1, 2018 through February 28, 2019, December 1, 2019 through February 29, 2020, June 1, 2020 through August 31, 2020, March 1, 2023 through May 31, 2023, March 1, 2024 through May 31, 2024 and September 1, 2024 through November 30, 2024.	:	DETERMINATION DTA NO. 851679

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Petitioner, Blooms Florist & Event Decor, Inc., 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 periods December 1, 2018 through February 28, 2019, December 1, 2019 through February 29, 2020, June 1, 2020 through August 31, 2020, March 1, 2023 through May 31, 2023, March 1, 2024 through May 31, 2024 and September 1, 2024 through November 30, 2024.

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. (Brendan Roche, Esq., of counsel), submitted a letter in support of the dismissal. Petitioner, appearing by LMD Tax Services, LLC (Lisa M. DiNuzzo, EA), did not submit a response by July 14, 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. Petitioner, Blooms Florist & Event Decor, Inc., filed a petition with the Division of Tax Appeals on March 5, 2025.
2. The petition included copies of notices and demands for payment of tax due (notices and demands) issued to petitioner by the Division of Taxation (Division) as follows: assessment number L-049607348, dated April 2, 2019; assessment number L-052246437, dated October 22, 2020; assessment number L-052319001, dated October 30, 2020; assessment number L-058606369, dated July 5, 2023; assessment number L-060351286, dated July 2, 2024; and assessment number L-061152697, dated January 6, 2025.
3. The petition did not include any statutory notices.
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 a notice and demand does not entitle a taxpayer to a hearing and it appeared that the Division of Tax Appeals was without jurisdiction to consider the merits of the petition.
5. On June 24, 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 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.”

6. 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 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.

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. 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