

STATE OF NEW YORK

DIVISION OF TAX APPEALS

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In the Matter of the Petition	:	
of	:	
<b>DECLAN LYNCH AND MAUDE LYNCH</b>	:	<b>DETERMINATION</b>
		<b>DTA NO. 851697</b>
for Redetermination of Deficiencies or for Refund of New York State Personal Income Tax under Article 22 of the Tax Law for the Years 2014 through 2023.	:	

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Petitioners, Declan Lynch and Maude Lynch, 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 2014 through 2023.

On June 20, 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. (Stephanie M. Lane, Esq., of counsel), submitted a letter in support of the dismissal. Petitioners, appearing pro-se, did not submit a response by July 21, 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. Petitioners, Declan Lynch and Maude Lynch, filed a petition with the Division of Tax Appeals on March 27, 2025.
2. A statutory notice or conciliation order was not attached to the petition.

3. On April 1, 2025, the Division of Tax Appeals made a written request to petitioners for copies of the statutory notices.

4. In response, petitioners provided the following notices and demands for payment of tax due (notices and demands) that were issued to petitioners by the Division of Taxation (Division): (i) assessment number L-054693124 for the year 2019, dated November 17, 2021; (ii) assessment number L-057514780 for the year 2020, dated December 6, 2022; and (iii) assessment number L-060322365 for the year 2021, dated June 25, 2024. The petition was severed with respect to these three notices and demands and the protest of these notices and demands have been assigned DTA number 852146 which will proceed in due course.

5. Petitioners also submitted the following notices and demands: (i) assessment number L-053975062 for the year 2020, dated July 28, 2021; (ii) assessment number L-056252509 for the year 2021, dated June 10, 2022; (iii) assessment number L-058033569 for the year 2022, dated May 2, 2023; and (iv) assessment number L-060297481 for the year 2023, dated June 24, 2024. The protest of these notices and demands is addressed herein.

6. Petitioners did not provide any statutory notices.

7. On June 20, 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 the Division of Tax Appeals appeared to lack jurisdiction to review the merits of the petition because no statutory notices were included with the petition and that notices and demands do not entitle a taxpayer to a hearing at the Division of Tax Appeals.

8. On July 17, 2025, the Division submitted a letter in response to the notice of intent to dismiss petition that, in pertinent part, stated:

“The petition in this matter failed to include a statutory notice related to tax years

2014, 2015, 2016, 2017, and 2018. As the failure to include such statutory notices rendered the petition incomplete and failed to meet the requirements of Tax Law § 2008 and 20 NYCRR 3000.3(b)(8), the Division respectfully agrees with the proposed dismissal for such tax years.”

With respect to notices and demands L-053975062 for the year 2020, dated July 28, 2021; L-056252509 for the year 2021, dated June 10, 2022; L-058033569 for the year 2022, dated May 2, 2023; and L-060297481 for the year 2023, dated June 24, 2024, the Division agrees that that Tax Law expressly states that these notices and demands do not constitute statutory notices and, thus, do not provide hearing rights at the Division of Tax Appeals.

9. Petitioners 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 (Tax Law § 2008 [1]; *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, a denial of a refund or credit application . . . 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 were attached.

C. On April 1, 2025, the Division of Tax Appeals made a written request for petitioners to supply the statutory notices. Petitioners failed to do so. Where petitioners fail 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]). A notice of intent to dismiss petition was issued on June 20, 2025.

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 submitted four notices and demands for assessment numbers L-053975062, L-056252509, L-058033569 and L-060297481, 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 [2]; *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 16, 2025

/s/ Donna M. Gardiner  
Supervising Administrative Law Judge