

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
BUTLER DISPOSAL SYSTEMS INC.	:	DETERMINATION
		DTA NO. 852199
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, 2025 through May 31, 2025.	:	

Petitioner, Butler Disposal Systems 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, 2025 through May 31, 2025.

On May 8, 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. (Nidhi Ayengar, Esq., of counsel), submitted a letter in support of the dismissal. Petitioner, appearing by Canale Insurance and Accounting (Phylisa Sova), did not submit a response by June 8, 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, Butler Disposal Systems Inc., filed a petition with the Division of Tax Appeals on October 15, 2025.

2. The petition appears to protest a notice and demand for payment of tax due (notice and demand) with assessment number L-062164632, but a statutory notice was not included with the petition.

3. On May 8, 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 May 21, 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 (*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 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 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).

D. While the petition also included a copy of a response to taxpayer inquiry letter issued to it by the Division, dated August 8, 2025, this type of correspondence from the Division is not a statutory document that provides 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
September 3, 2026

/s/ Donna M. Gardiner
SUPERVISING ADMINISTRATIVE LAW JUDGE