STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition of **REMORSELESS INC. D/B/A IZZY'S WINES & SPIRITS** 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 December 1, 2024 through February 28, 2025.	:	DETERMINATION DTA NO. 852742

Petitioner, Remorseless Inc. d/b/a Izzy's Wines & Spirits, 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 December 1, 2024 through February 28, 2025.

On June 26, 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. (Adam Roberts, Esq., of counsel), submitted a letter in support of the dismissal. Petitioner, appearing by Gellerman Associates (Alan Gellerman, PA), did not submit a response by July 27, 2026, 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, Remorseless Inc. d/b/a Izzy's Wines & Spirits, filed a petition with the Division of Tax Appeals on June 3, 2026.

2. The petition included a copy of a notice and demand for payment of tax due (notice and demand), bearing assessment number L-061850128, dated June 4, 2025, issued to petitioner by the Division of Taxation (Division).

3. The petition did not include any statutory notice.

4. On June 26, 2026, the Division of Tax Appeals issued to petitioner a notice of intent to dismiss petition. The notice of intent to dismiss petition stated that the Division of Tax Appeals lacked jurisdiction to consider the merits of the petition because a taxpayer is not entitled to a hearing before the Division of Tax Appeals with respect to a notice and demand.

5. On July 22, 2026, 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 submit a response 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***, 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. 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 22, 2026

/s/ Donna M. Gardiner
SUPERVISING ADMINISTRATIVE LAW JUDGE