

**State of New York
Division of Tax Appeals**

**Stipulation For
Discontinuance**

In the Matter of the Petition
of

for Redetermination of a Deficiency/Revision of a Determination or for Refund under Article(s) _____
of the Tax Law for the Year(s)/Period(s) _____

DTA # _____

Notice/Assessment # _____

The parties have agreed to settle the above-entitled proceeding, and have executed this stipulation for filing with the Division of Tax Appeals. Accordingly, it is hereby stipulated and agreed by and between the parties herein that this proceeding shall be discontinued with prejudice, and that the deficiency/determination or refund be recomputed as follows:

Deficiency/determination or (refund) as recomputed: _____

Interest: _____

Penalty: _____

Please check the applicable box(es), if any:

- The parties agree that for purposes of Tax Law § 3030 petitioner(s) is the prevailing party and may make application to the Division of Tax Appeals for such costs and fees as are allowed; or
- Petitioner(s) waives any rights it might otherwise have to proceed to recover costs and fees in the Division of Tax Appeals pursuant to Tax Law § 3030; or
- The parties agree that for the purposes of Tax Law § 3030 the position of the Commissioner of Taxation was substantially justified.

THIS STIPULATION represents the complete agreement of the parties. There are no agreements or understandings between the parties, express or implied, except as provided for herein. (If additional room is required to fully set for the parties' agreement, please do so below. If additional pages are needed, they should be separately signed by the parties, dated and attached hereto.)

FOR REFUNDS ONLY It is understood that all refund claims are subject to the approval of the Comptroller. Accordingly, this stipulation for discontinuance is conditioned upon the granting of such approval and the payment of the refund.

ORDER OF DISCONTINUANCE

UPON FILING OF THIS STIPULATION with the Division of Tax Appeals by either party, it shall be deemed a joint motion for an Order discontinuing the above-entitled matter in accordance with its terms. The issuance of the Order shall finally determine the matter pending before the Division of Tax Appeals.

APPLICATION FOR COSTS

UNLESS the right has been waived herein, petitioner shall have thirty (30) days from the date of the Order discontinuing this matter to file an application for costs and fees with the Division of Tax Appeals pursuant to Tax Law § 3030. If the parties hereto have not indicated as part of this Stipulation that petitioner is a prevailing party, the Division of Tax Appeals will determine the prevailing part in this matter in accordance with Tax Law § 3030(c).

Signature of Taxpayer or Representative*

Date

Signature of Representative of Division of Taxation

Date

*If the stipulation is signed by any person other than the taxpayer, it must be accompanied by a duly executed power of attorney.