STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
ABDULLAH U. TANSEL AND AFIFE M. TANSEL	:	ORDER DTA NO. 850569
for Redetermination of a Deficiency or for Refund of New York State and New York City Personal Income Taxes under Article 22 of the Tax Law and the Administrative Code of the City of New York for the Year 2019.	:	

Petitioners, Abdullah U. Tansel and Afife M. Tansel, filed a petition for redetermination of a deficiency or for refund of New York State and New York City personal income taxes under article 22 of the Tax Law and the Administrative Code of the City of New York for the year 2019.

A small claims hearing was scheduled before Presiding Officer Juan Cartagena in New York, New York, on Tuesday, November 25, 2025, at 11:00 a.m. Petitioners failed to appear, and a default determination was duly issued on February 26, 2026.

Petitioners, appearing pro se, made a written application, filed on March 27, 2026, that the default determination be vacated pursuant to 20 NYCRR 3000.13 (d) (3). The Division of Taxation, by its representative, Amanda Hiller, Esq. (Stefan M. Armstrong, Esq., of counsel), filed a response by April 27, 2026, which date commenced the 90-day period for the issuance of this order.

Based upon a review of the entire case file in this matter, Donna M. Gardiner, Supervising Administrative Law Judge, renders the following order.

ISSUE

Whether the default determination issued in this matter should be vacated.

FINDINGS OF FACT

1. On June 12, 2023, petitioners, Abdullah U. Tansel and Afife M. Tansel, filed a petition with the Division of Tax Appeals protesting a conciliation order, CMS number 000337114, dated April 21, 2023. The conciliation order sustained a refund denial letter, dated May 5, 2021, for tax year 2019.

2. Petitioners listed their address as "180 West End Avenue Apt 28A New [Y]ork NY 10023" on the petition.

3. On October 15, 2025, a notice of hearing was issued to petitioners at their address listed on the petition that scheduled the small claims hearing in the above-captioned matter for November 25, 2025, at 11:00 a.m., at the New York State Department of Public Services, 90 Church Street, 4th Floor, New York, New York, 10007-2919. A copy of the notice of hearing was simultaneously sent to the Division of Taxation (Division).

4. Petitioners did not respond to the notice of hearing.

5. On Tuesday, November 25, 2025, at 11:00 a.m., Presiding Officer Cartagena commenced a small claims hearing as scheduled in the ***Matter of Abdullah U. Tansel and Afife M. Tansel***. The Division appeared by its representative. Petitioners did not appear at the hearing. Additionally, petitioners did not submit a written request for an adjournment of the hearing. Consequently, the Division's representative moved that petitioners be held in default.

6. On February 26, 2026, Presiding Officer Cartagena issued a default determination against petitioners, denying the petition in this matter.

7. Petitioners' application to vacate the default determination (application) was filed on March 27, 2026, from New York, New York, as indicated by the United States Postal Service

postmark on the envelope. In the unsworn letter, petitioners stated that they did not receive the notice of hearing and learned that they missed the scheduled hearing after receipt of the default determination. Petitioners indicated that they are currently on sabbatical from Baruch College and are overseas through August 24, 2026. Petitioners assert that, prior to leaving New York City, they sent correspondence to the Division of Tax Appeals stating that they would be overseas and not in New York City. Petitioners did not present any evidence to support their claims or to demonstrate a meritorious case.

8. In its opposition to the instant application, the Division cites section 3000.13 (d) (3) of the Rules of Practice and Procedure of the Tax Appeals Tribunal (Rules) and states that petitioners failed to submit any evidence of a meritorious case with their application.

CONCLUSIONS OF LAW

A. As provided in the Rules:

> "[i]n the event a party or the party's representative does not appear at a scheduled hearing and an adjournment has not been granted, the presiding officer shall, on his or her own motion or on the motion of the other party, render a default determination against the party failing to appear" (20 NYCRR 3000.13 [d] [2]).

The Rules further provide that, "[u]pon written application to the supervising administrative law judge, a default determination may be vacated where the party shows an excuse for the default and a meritorious case" (20 NYCRR 3000.13 [d] [3]).

B. Petitioners did not appear at the scheduled hearing or obtain an adjournment. Therefore, the presiding officer correctly rendered a default determination pursuant to 20 NYCRR 3000.13 (d) (2) (***see Matter of Hotaki***, Tax Appeals Tribunal, December 14, 2006; ***Matter of Zavalla***, Tax Appeals Tribunal, August 31, 1995).

C. Once the default determination was issued, it was incumbent upon petitioners to show an acceptable excuse for not attending the hearing and that they have a meritorious case (***see*** 20 NYCRR 3000.13 [d] [3]; ***Matter of Poindexter***, Tax Appeals Tribunal, September 7, 2006; ***Matter of Zavalla***). Petitioners offered an unsworn letter without any documentation. This clearly does not meet their burden of proof.

The record shows that the notice of small claims hearing, dated October 15, 2025, expressly informed petitioners that the hearing was scheduled for November 25, 2025, unless petitioners opted for a virtual hearing or filed an adjournment request. Petitioners never contacted the Hearing Support Unit to request a virtual hearing or to request an adjournment of the hearing. Although petitioners allege that: they were on sabbatical; they did not receive the notice of hearing until after receipt of the default determination; and they sent a letter to the Hearing Support Unit indicating they would be out of the country for a year, they have not presented any evidence of these facts. In fact, petitioners acknowledged receipt of the default determination mailed to their New York, New York, address and sent their application from New York, New York, during times when they said that they were out of the country. Therefore, petitioners have not demonstrated an acceptable excuse for their absence at the hearing (***see Matter of Sun***, Tax Appeals Tribunal, April 11, 2023).

D. Furthermore, petitioners have not established a meritorious case. "In order to meet the meritorious case criterion for vacatur, petitioner must make a prima facie showing of legal merit, and may not rely on conclusory statements unsupported by the facts" (***Matter of Gordon***, Tax Appeals Tribunal, January 29, 2015). Petitioners' application failed to address the substance of their case. As a result, petitioners' application fails on this prong as well.

E. The application of Abdullah U. Tansel and Afife M. Tansel to vacate the default determination, dated February 26, 2026, is denied.

DATED: Albany, New York
July 16, 2026

/s/ Donna M. Gardiner
SUPERVISING ADMINISTRATIVE LAW JUDGE