

STATE OF NEW YORK

TAX APPEALS TRIBUNAL

In the Matter of the Petition	:	
of	:	
ECHOSTAR SATELLITE CORP.	:	ORDER
	:	DTA NO. 821465
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, 2000 through February 29, 2004.	:	

The Tax Appeals Tribunal issued its decision in this matter on August 6, 2009, finding in favor of the Division of Taxation. Petitioner filed an appeal to the decision of this Tribunal. The Appellate Division, Third Department, affirmed in an opinion, dated December 9, 2010. Petitioner took an appeal to the Court of Appeals, which issued an opinion, dated December 18, 2012, which annulled this Tribunal's decision and ordered that the matter be remitted to the Appellate Division, Third Department, with orders to remand the matter to this Tribunal.

Consistent with the Court of Appeals decision, the Appellate Division, Third Department, issued an order, dated January 10, 2013, annulling the August 6, 2009 decision of this Tribunal and remanding the matter for further proceedings consistent with the Court of Appeals opinion, dated December 18, 2012.

Consistent with the Court of Appeals decision dated December 18, 2012, it is ORDERED, ADJUDGED and DECREED that:

1. The exception of EchoStar Satellite Corp. is granted;
2. The petition of EchoStar Satellite Corp. is granted; and

3. The Division of Taxation is directed to refund taxes paid, with such interest as may be due, pursuant to the Notice of Determination issued on February 28, 2005.

DATED: Albany, New York
March 7, 2013

/s/ James H. Tully, Jr.
James H. Tully, Jr.
President

/s/ Charles H. Nesbitt
Charles H. Nesbitt
Commissioner