

STATE OF NEW YORK

DIVISION OF TAX APPEALS

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In the Matter of the Petition	:	
of	:	
<b>BRIAN HOOPER</b>	:	ORDER
		DTA NO. 822880
for Redetermination of a Deficiency or for Refund :		
of New York State and City Personal Income		
Taxes under Article 22 of the Tax Law and the	:	
Administrative Code of New York City for the		
Years 1993 and 1994.	:	

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Petitioner, Brian Hooper, 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 New York City for the years 1993 and 1994.

On October 8, 2009, following the filing of a motion for summary determination by the Division of Taxation, Catherine M. Bennett, Administrative Law Judge, issued a determination in the above matter granting the Division of Taxation's motion and dismissing the petition.

On January 14, 2010, petitioner filed an exception to the determination with the Tax Appeals Tribunal. On the same date, petitioner filed a motion with the Division of Tax Appeals to reopen the record in this matter

Upon review of the motion filed by petitioner, Daniel J. Ranalli, Assistant Chief Administrative Law Judge, renders the following order.

***ORDER***

Pursuant to the Tax Appeals Tribunal Rules of Practice and Procedure (20 NYCRR 3000.16[b]), "an administrative law judge shall have no power to grant a motion [to reopen the

record] after the filing of an exception with the tax appeals tribunal.” Inasmuch as petitioner filed an exception with the tribunal in this matter on the same date that he filed the motion to reopen the record, the Division of Tax Appeals is, as a result, precluded from granting such motion.

The motion of petitioner, Brian Hooper, to reopen the record is hereby denied.

Dated: Troy, New York  
February 18, 2010

/s/ Daniel J. Ranalli  
ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE