

STATE OF NEW YORK

DIVISION OF TAX APPEALS

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In the Matter of the Petition  
of  
**MD J. TARAFDAR**  
for Redetermination of a Deficiency or for Refund of New  
York State Personal Income Tax under Article 22 of Tax  
Law and the New York City Administrative Code for the  
Year 2018.

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DETERMINATION  
DTA NO. 830338

Petitioner, MD J. Tarafdar, filed a petition for redetermination of a deficiency or for refund of New York State personal income tax under article 22 of the Tax Law and the New York City administrative code for the year 2018. On October 8, 2021, the Division of Tax Appeals issued to petitioner a notice of intent to dismiss petition pursuant to 20 NYCRR 3000.9 (a) (4). The Division of Taxation, appearing by Amanda Hiller, Esq. (Maria Matos, Esq., of counsel), submitted a letter in support of the dismissal. Petitioner, appearing pro se, did not submit a response by November 8, 2021, which date triggered the 90-day deadline for issuance of this determination. After due consideration of the documents submitted, Herbert M. Friedman, Jr., Supervising Administrative Law Judge, renders the following determination.

***ISSUE***

Whether the Division of Tax Appeals lacks jurisdiction over the petition.

***FINDINGS OF FACT***

1. Petitioner, MD J. Tarafdar, filed a petition that was received by the Division of Tax Appeals on March 5, 2021. The envelope containing the petition bears a USPS shipping label indicating the petition was mailed on March 2, 2021.

2. The petition includes and challenges a copy of a conciliation order, CMS No. 326997, dismissing its request for assessment number L-051541705, issued by the Division of Taxation's (Division's) Bureau of Conciliation and Mediation Services on February 19, 2021.
3. The petition is unsigned.
4. The petition lists Harun Ali as petitioner's representative. However, it lists Mr. Ali's qualifications as "other" and does not include a power of attorney form appointing Mr. Ali as petitioner's representative.
5. On April 9, 2021, the Division of Tax Appeals sent a letter to petitioner identifying the items missing from the petition and that failure to correct it within 30 days may result in a dismissal. The letter to petitioner indicated the following:
  - i. The petition lists an unqualified representative.
  - ii. The petition is not signed on page 3.
6. Petitioner did not cure the deficiencies in the petition.
7. On October 8, 2021, the Division of Tax Appeals issued to petitioner a notice of intent to dismiss petition. The notice stated, in sum, that the petition is in improper form and the Division of Tax Appeals lacks jurisdiction.
8. In response to the notice of intent to dismiss petition, the Division of Taxation's (Division's) representative submitted a letter on October 26, 2021 stating:

“[t]he Division is in receipt of the Notice of Intent to Dismiss the petition in the above referenced matter. As the petition submitted was in a proper form as required by 20 NYCRR 3000.3 and Tax Law § 2008 and because the petition lists an unqualified representative and the petition is not signed on page 3, the Division is in agreement with the proposed dismissal.”
9. Petitioner did not submit a response to the notice of intent to dismiss petition.

