

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition :
of :
MOHAMEDOU SOKHONA : DETERMINATION
for Redetermination of a Deficiency or for Refund of New : DTA NO. 830423
York State Personal Income Tax under Article 22 of the :
Tax Law for the Year 2016. :

Petitioner, Mohamedou Sokhona, 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 for the year 2016. 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. (Christopher O'Brien, 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 has subject matter jurisdiction over the petition.

FINDINGS OF FACT

1. Petitioner, Mohamedou Sokhona, filed a petition that was received by the Division of

Tax Appeals on April 28, 2021. The priority mail envelope containing the petition, bears a United States Postal Service (USPS) postmark indicating the petition was mailed on April 24, 2021.

2. The petition protests a notice of deficiency bearing assessment number L-052867022, issued by the Department of Taxation and Finance on March 31, 2021.

3. The petition does not reference any other notice.

4. The petition was not signed and dated.

5. A request for corrections letter was mailed to petitioner by the Division of Tax Appeals on June 11, 2021. The letter informed petitioner that he needed to sign the petition. To date, the Division of Tax Appeals has not received a response from petitioner.

6. 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.

7. In response to the notice of intent to dismiss petition, the Division of Taxation's (Division's) representative submitted a letter on October 22, 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 not in proper form, as required by 20 NYCRR 3000.3 and Tax Law § 2008 because the petition is not signed, the Division is in agreement with the proposed dismissal.”

8. Petitioner did not submit a response to the notice of intent to dismiss petition.

CONCLUSIONS OF LAW

A. All proceedings brought before the Division of Tax Appeals must be commenced by the filing of a petition in accordance with the requirements of Tax Law § 2008 and 20 NYCRR 3000.3.

B. Pursuant to 20 NYCRR 3000.3 (b) (7), a petition shall contain “the signature of the petitioner or the petitioner’s representative.”

C. The petition filed in this matter was not filed in accordance with Tax Law § 2008 and 20 NYCRR 3000.3. Specifically, the petition was unsigned.

D. Where a filed petition is not in proper form, petitioner shall be provided with a statement indicating the requirements with which the petition does not comply and allow petitioner an additional 30 days to file a corrected petition with the supervising administrative law judge (*see* 20 NYCRR 3000.3 [d] [1]). Where, upon notice, the petitioner fails to correct the petition within the time prescribed, the supervising administrative law judge will issue a determination dismissing the petition (*see* 20 NYCRR 3000.3 [d] [2]).

E. Petitioner was provided the required notice and opportunities to correct the petition pursuant to 20 NYCRR 3000.3 (d); however, the necessary correction was not made. As the petition was not filed in proper form, it must be dismissed (*see* Tax Law § 2008; 20 NYCRR 3000.3 [d]).

F. The petition of Mohamedou Sokhona is dismissed.

DATED: Albany, New York
February 3, 2022

/s/ Herbert M. Friedman, Jr.
SUPERVISING ADMINISTRATIVE LAW JUDGE