STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition of **COLLISION PROZ AUTOBODY CORP.** for Review of a Proposed Revocation of a License, Permit or Registration under Articles 28 and 29 of the Tax Law dated September 23, 2025.	: : : : : :	DETERMINATION DTA NO. 852360

Petitioner, Collision Proz Autobody Corp., filed a petition for review of a proposed revocation of a license, permit or registration under articles 28 and 29 of the Tax Law dated September 23, 2025.

An expedited formal hearing by videoconference was held before Alejandro Taylor, Administrative Law Judge, on February 20, 2026, with all briefs to be submitted by June 5, 2026, which date began the period for the issuance of this determination. Petitioner appeared by Armanino Advisory LLC (Jennifer Koo, Esq., of counsel). The Division of Taxation appeared by Amanda Hiller, Esq. (Brendan Roche, Esq., of counsel).

ISSUE

Whether petitioner has established that the Division of Taxation's proposed revocation of petitioner's certificate of authority was improper and should be cancelled.

FINDINGS OF FACT

1. Petitioner, Collision Proz Autobody Corp., operates a business located in Bronx, New York, providing automotive mechanical and body repair services.

2. On June 16, 2025, the Division of Taxation (Division) issued a notice and demand for payment of tax due (notice and demand) to petitioner, notifying it that it had failed to file its sales tax return for the quarter ending November 30, 2024. The notice and demand informed petitioner that a notice of estimated determination had been issued to it on February 28, 2025, requesting that petitioner file the sales tax return due for the overdue quarter even if no tax was due. The Division also attached a consolidated statement of tax liabilities to the notice and demand, which listed the following outstanding sales tax liabilities as subject to collection:

Assessment ID	Tax Period Ended	Tax Amount Assessed	Interest Amount Assessed	Penalty Amount Assessed	Assessment Payments/ Credits	Current Balance Due
L-059253233	2/28/22	79,674.51	49,346.08	23,902.25	0.00	152,922.84
L-059253234	5/31/22	73,011.96	40,855.77	21,903.39	0.00	135,771.12
L-059253235	8/31/22	64,870.93	32,877.21	19,461.09	0.00	117,209.23
L-059253236	11/30/22	89,848.19	40,360.19	26,954.41	0.00	157,162.79
L-059253237	2/28/23	77,134.22	30,627.23	23,140.22	0.00	130,901.67
L-059253238	5/31/23	80,770.22	26,515.51	25,052.38	57,513.80	74,824.31
L-059264969	8/31/23	74,857.87	22,522.45	23,143.67	0.00	120,523.99
L-059340287	11/30/23	49,733.19	12,784.27	13,967.64	0.00	76,485.10
L-059966656	2/29/24	44,709.41	7,750.59	9,977.28	10,000.00	52,437.28
L-060347364	5/31/24	64,500.31	10,839.88	13,975.03	0.00	89,315.22
L-060766793	8/31/24	55,313.70	6,986.05	10,325.15	0.00	72,624.90
L-061409275	2/28/25	24,459.01	1,352.80	3,338.61	0.00	29,150.42
					TOTAL	$1,209,328.87

The notice and demand also listed the return for the period ending November 30, 2024, as not having been filed as of June 16, 2025:

Assessment ID	Tax Period Ended	Tax Amount Due	Interest Amount Due	Penalty Amount Due	Assessment Payments/ Credits	Current Balance Due
L-061324655	11/30/24	64,500.31	5,558.23	10,750.03	0.00	80,808.57
					TOTAL	$1,209,328.87

The notice and demand noted that recent adjustments and credits may not yet be included in the statement.

3. On September 23, 2025, the Division issued a notice of proposed revocation of sales tax certificate of authority (proposed revocation notice) to petitioner, warning petitioner that its certificate of authority would be revoked within 30 days unless petitioner filed all missing returns, paid any unpaid fixed and final sales tax debts and otherwise met its sales tax obligations. Contained within the proposed revocation notice was the following statement:

> "Unless you take steps to resolve the following issues within 30 days of the date this notice was mailed, the business's *Certificate of Authority* will be revoked pursuant to Tax Law § 1134(a)(4)(A).
>
> - You have willfully failed to collect or pay over New York State sales tax as required by the Tax Law. The enclosed *Consolidated Statement of Tax Liabilities* sets forth the details of what you owe.
>
> - You have willfully failed to file all reports or returns required by the New York State Sales Tax Law."

The Division also attached a consolidated statement of tax liabilities to the notice of proposed revocation, which listed the following outstanding sales tax liabilities as subject to collection:

Assessment ID	Tax Period Ended	Tax Amount Assessed	Interest Amount Assessed	Penalty Amount Assessed	Assessment Payments/ Credits	Current Balance Due
L-062156276	5/31/25	0.00	5.50	669.12	0.00	674.62
L-061409275	2/28/25	24,459.01	2,302.79	4,072.38	0.00	30,834.18

L-060766793	8/31/24	55,313.70	9,278.97	11,984.54	0.00	76,577.21
L-060347364	5/31/24	64,500.31	13,612.75	15,910.03	0.00	94,023.09
L-059966656	2/29/24	44,709.41	10,949.69	12,188.40	10,000.00	57,847.50
L-059340287	11/30/23	45,249.90	13,724.82	14,065.62	0.00	73,040.34
L-059264969	8/31/23	61,309.65	21,469.73	19,007.46	0.00	101,786.84
L-059253238	5/31/23	78,352.23	25,735.73	24,010.94	75,865.87	52,233.03
L-059253237	2/28/23	67,280.67	30,308.86	20,184.06	0.00	117,773.59
L-059253236	11/30/22	78,739.89	39,742.33	23,621.78	0.00	142,104.00
L-059253235	8/31/22	60,395.88	34,050.37	18,118.58	0.00	112,564.83
L-059253234	5/31/22	70,023.57	43,258.04	21,006.95	0.00	134,288.56
L-059253233	2/28/22	75,383.90	51,271.40	22,614.99	0.00	149,270.29
					TOTAL	$1,143,018.08

As part of the revised consolidated statement of tax liabilities, the Division listed estimated sales tax due for the quarter ending November 30, 2024, due to no sales tax return being filed for that quarter:

Assessment ID	Tax Period Ended	Tax Amount Assessed	Interest Amount Assessed	Penalty Amount Assessed	Assessment Payments/ Credits	Current Balance Due
L-061324655	11/30/24	64,500.31	8,136.71	12,685.03	0.00	85,322.05
					TOTAL	$85,322.05

4. Petitioner filed a protest of the proposed revocation notice with the Division’s Bureau of Conciliation and Mediation Services (BCMS), which held a conciliation conference on November 3, 2025. By conciliation order, dated November 28, 2025 (CMS number 000376863), the BCMS conferee denied petitioner’s protest of the Division’s proposed revocation.

5. On December 26, 2025, petitioner timely filed a petition for a hearing before the Division of Tax Appeals protesting the proposed revocation. A hearing was held by

videoconference on February 20, 2026, with Juan Clarke, Jr., one of petitioner's owners, and Maralin Springer, a Division employee, appearing as witnesses.

6. Ms. Springer testified that she is currently a Taxpayer Specialist 2 with the Civil Enforcement Division of the Division. She has held that position for two years and has been employed by the Division for 12 years in total. As part of her job duties, Ms. Springer assists taxpayers with setting up formal payment plans for overdue taxes and takes collection actions against taxpayers who have not complied with their tax obligations, including seizing businesses and revoking certificates of authority.

7. Ms. Springer was assigned to petitioner's case and began the certificate revocation process after petitioner failed to fully pay the outstanding balance or set up a formal payment plan to resolve the overdue sales tax amounts. She testified that the standard review process for determining whether a taxpayer should have its certificate of authority revoked includes reviewing whether the taxpayer owes more than $5,000.00 in overdue tax. Next, Ms. Springer would contact the taxpayer by phone to work out a voluntary payment plan. If those collection methods fail, the Division would next consider levies or seizure of the business before considering revoking its certificate of authority. In this case, Ms. Springer testified that the Division attempted seizure of the business but, instead, allowed petitioner additional time to resolve the outstanding tax balances. According to the Division's records, all the listed assessments were fixed and final liabilities and subject to collection. Ms. Springer explained that, because petitioner was unable to resolve its outstanding balances, she referred the case to her supervisor for approval of revocation of petitioner's certificate of authority, which ultimately resulted in the issuance of the proposed revocation notice on September 23, 2025.

8. At the hearing, when asked if there was anything that could be done to stop the revocation process once it was started, Ms. Springer replied that establishing a formal payment plan with the Division would stop a revocation in process. Ms. Springer testified that there was no formal payment plan in place according to the Division's records. According to Ms. Springer, a taxpayer can also enter into a formal payment plan through an accepted offer in compromise, but that taxpayers who have not yet had an offer in compromise accepted were still eligible for revocation of their certificates of authority. In this case, petitioner was allowed time to complete the offer in compromise but failed to complete it within the time allowed, thus resulting in the referral for revocation of its certificate of authority.

9. Juan Clarke, Jr., appeared as a witness for petitioner. Mr. Clarke testified that he was one of three owners of petitioner. Mr. Clarke explained that the business had fallen behind in its sales tax filings, but filed a number of past due returns and entered into a formal payment arrangement with the Division for the outstanding tax liabilities sometime in 2025. However, petitioner was unable to keep up with the payment schedule and opted to file for an offer in compromise to resolve the outstanding tax debt. Mr. Clarke stated that, after he expended considerable effort in collecting the required documents and information needed, petitioner submitted its application for an offer in compromise to the Division.

10. After receiving correspondence from the Division, dated September 5, 2025, stating that the application was incomplete and requesting further information, Mr. Clarke worked with petitioner's other owners and their representative to provide the requested information to the Division's Offer in Compromise Unit. By correspondence, dated November 6, 2025, the Division acknowledged petitioner's submission of a complete application for an offer in compromise. While admitting that at the time of the original filing of the application for an offer

in compromise that petitioner was not current on its tax filings, Mr. Clarke testified that petitioner remained committed to resolving its sales tax liability.

CONCLUSIONS OF LAW

A. Under Tax Law § 1105 (c) (3), sales tax is imposed on the receipts from every sale of servicing or repairing tangible personal property. Persons required to collect sales tax include every vendor of tangible personal property or services (***see*** Tax Law § 1131 [1]). Such vendors are required to file a certificate of registration with the Division, and the Division shall issue a certificate of authority empowering the registrant to collect the tax (***see*** Tax Law § 1134 [a] [1], [2]).

B. Under Tax Law § 1136, every person required to register with the Division is required to file either a monthly and/or quarterly return depending on the total amount of taxable receipts (***see*** Tax Law § 1136 [a] [1], [2]). Every person required to file a return under Tax Law § 1136 shall, at the time of filing of the return, pay to the Division all moneys collected by such person as sales tax on taxable receipts (***see*** Tax Law § 1137 [a] [iii]). The amount payable to the Division for the period for which a return is required to be filed is due on the date the return is due (***see*** Tax Law § 1137 [e] [1]; 20 NYCRR 533.4 [a] [1]). Under the Division's regulations, quarterly returns are due for the preceding quarter on March 20, June 20, September 20 and December 20 of each year (***see*** 20 NYCRR 533.3 [c] [1], [2]).

C. Where a holder of a certificate of authority willfully fails to file a sales tax return or to pay over sales tax collected, the Division may revoke or suspend the certificate of authority (***see*** Tax Law § 1134 [a] [4] [A]; 20 NYCRR 539.4 [a], [b]). If the Division determines to revoke a certificate of authority, it is required to issue a notice of proposed revocation to the certificate holder and must state the basis for the proposed revocation (***see*** 20 NYCRR 539.4 [c] [1] [i]).

The determination to revoke a certificate of authority based on the circumstances in each case (***see*** 20 NYCRR 539.4 [a]).

D. The question posed in this matter is whether the Division's proposed revocation of petitioner's certificate of authority was proper. Petitioner argues that its submission of an offer in compromise to the Division should stay the revocation of its certificate of authority until such time the offer in compromise is accepted or denied. In support of its argument, it points to the language of the notice of proposed revocation, which states "[u]nless you take steps to resolve the following issues within 30 days of the date this notice was mailed, the business's *Certificate of Authority* will be revoked pursuant to Tax Law § 1134(a)(4)(A)." Petitioner claims that it complied with the requirement to take steps to resolve the issue by submitting an application for an offer in compromise within 30 days of the issuance of the notice.

E. As previously discussed, the Division may suspend the certificate of authority of a vendor for failing to file required sales tax returns or to pay over sales tax when due (***see*** conclusion of law C). The only requirement is that the failure to file a return or pay over sales tax due be willful (***see*** Tax Law § 1134 [a] [4] [A]; 20 NYCRR 539.4 [b]).

F. Failure to file sales tax returns as required under the Tax Law is willful for purposes of Tax Law § 1134 (a) (4) (A) (i) where such failure is "knowing, deliberate and voluntary" (***Matter of Yonkers Wholesale Beer Distrib., Inc.***, Tax Appeals Tribunal, January 27, 2020; ***see also Matter of Flair Beverages Corp***, Tax Appeals Tribunal, December 2, 2021, citing ***Matter of Levin v Gallman***, 42 NY2d 32 [1977]). The court in ***Matter of Levin v Gallman*** found that "only something more than accidental nonpayment is required" for conduct to be willful and concluded that the taxpayer had acted willfully because he "knowingly, deliberately and voluntarily disregarded his obligations" (42 NY2d at 34).

G. In this case, petitioner does not dispute that the assessments listing past due sales tax amounts are valid and admits that at the time of the initial filing of its offer in compromise that it was not in compliance with its filing obligations. It is clear that petitioner acted voluntarily when it failed to pay over sales tax collected on taxable receipts to the Division when it filed its sales tax returns. Similarly, it was aware that it was not current with its sales tax quarterly filings when it received the notice of proposed revocation. Because petitioner acted knowingly and voluntarily, it is concluded that petitioner acted willfully in failing to meet its return filing and tax remittance obligations under the Tax Law and is thus subject to having its certificate of authority revoked.

H. As discussed above, petitioner argues that the initial filing of the offer in compromise should hold the revocation of its certificate of authority in abeyance until its final determination. However, this argument ignores the limited nature of this forum's jurisdiction (***see*** Tax Law § 2008; ***Matter of Scharff***, Tax Appeals Tribunal, October 4, 1990, ***revd on other grounds sub nom Matter of New York State Dept. of Taxation & Fin. v Tax Appeals Trib.***, 151 Misc 2d 326, 332 [Sup Ct, Albany County 1991]). The power of the Division of Tax Appeals to adjudicate disputes is exclusively statutory and cannot be extended to areas not specifically delegated to it (***Matter of Meltzer***, Tax Appeals Tribunal, March 29, 2018). The Division of Tax Appeals is authorized "[t]o provide a hearing as a matter of right, to any petitioner upon such petitioner's request . . . unless a right to such a hearing is specifically provided for, modified or denied by another provision of this chapter" (Tax Law § 2006 [4]). Tax Law § 2008 (1) limits the jurisdiction of the Division of Tax Appeals to matters:

> "protesting any written notice of the division of taxation . . . which has advised the petitioner of a tax deficiency, a determination of tax due, a denial of a refund or credit application, a cancellation, revocation or suspension of a license, permit or registration, a denial of an application for a license, permit or registration or

> any other notice which expressly gives a person the right to a hearing in the division of tax appeals under this chapter or other law."

I. Under Tax Law 171 (Fifteenth), the Division may compromise any taxes it administers, along with interest and penalties, if the tax debtor is insolvent or shows that collection in full would cause undue economic hardship. Under the Division's regulations, an offer in compromise under Tax Law § 171 (Fifteenth) may only be made where the liability is fixed and final (***see*** 20 NYCRR 5005.1 [a]). As such, an offer in compromise is an application for settlement of outstanding tax debt and the Division's acceptance of such offer is discretionary (***see*** 20 NYCRR 5005.1 [b] [1]). As discussed above, the Division of Tax Appeals is an adjudicatory body of limited jurisdiction and therefore lacks the authority to mandate settlement agreements (***see Matter of Snyder***, Tax Appeals Tribunal, May 5, 2011).

J. The petition of Collision Proz Autobody Corp. is denied and the notice of proposed revocation of sales tax certificate of authority is sustained.

DATED: Albany, New York
July 2, 2026

/s/ Alejandro Taylor
ADMINISTRATIVE LAW JUDGE