

**TAX APPEAL BOARD OF THE STATE OF DELAWARE**

<b>JOY M. SINGLEY,</b> Petitioner,	)	
	)	
v.	)	<b>Docket No. 1012</b>
	)	
<b>DIRECTOR OF REVENUE,</b> Respondent.	)	
	)	
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Before: Joseph S. Yucht, Esquire, Chairman; John H. Cordrey, Esquire, Vice Chairman; Harry B. Roberts, David Eppes, and Regina Dudziec, Members.

Ralph V. Estep, E.A., for Petitioner.

Joseph Patrick Hurley, Jr., Esquire, Deputy Attorney General for Respondent.

**DECISION AND ORDER**

John H. Cordrey, Esquire, Vice Chairman.

The present matter is before the Board on a motion to dismiss filed by Respondent. Respondent argues that the Petition was filed more than 90 days after the mailing of the Notice of Determination to Petitioner and this Board is therefore without jurisdiction to hear the appeal. The Board has considered the petition, answer, motion and response, answers to interrogatories, and testimony in rendering this decision.

The Board finds that the Notice of Determination was mailed to Petitioner's representative on May 23, 1990. Petitioner's representative responded by a letter dated and mailed August 20, 1990 and received by the Board August 30, 1990. The Board's secretary advised Petitioner's representative that the letter was not in the normal form of a petition nor had the correct number of copies. On September 10, 1990 Petitioner filed a document entitled "Petition" with the Board and Respondent timely answered and filed the present

motion to dismiss.

It is well settled law in Delaware and elsewhere that Courts should favor the resolution of matters upon their merits rather than relying upon technical or procedural deficits to deny litigants their "day in Court." 30 Del.C. §1185 provides that the Notice of Determination is final upon the expiration of 90 days from the mailing of said notice "...unless within this period the taxpayer seeks review of the State Tax Commissioner's determination." The Board finds that by the letter dated August 20, 1990 the taxpayer sought review of the Respondent's decision within the 90 day period permitted by statute.

The Respondent's Motion to Dismiss is therefore denied.

IT IS SO ORDERED, this 11th day of October, 1991.

John H. Cordrey

Joseph J. Gault

Regina C. Dudgeon

Paul

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