

STATE OF NEW YORK

THE STATE TAX COMMISSION

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In the Matter of the Application

of

SPEDCOR ELECTRONICS, INC.

for revision or refund of franchise  
tax under Article 9-A of the Tax  
Law for the fiscal year ended July  
31, 1959.

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Spedcor Electronics, Inc. (formerly Specialty Electronics Development Corporation), the taxpayer herein, having filed application for revision or refund of franchise tax for the fiscal year ended July 31, 1959, and a hearing having been held in connection therewith at the office of the State Tax Commission in New York City on December 11, 1968 before John J. Genevich, Hearing Officer of the Department of Taxation and Finance, at which hearing Lawrence Schwartz, comptroller of the taxpayer, appeared and testified, together with Ruth Meyers, certified public accountant, and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayer was incorporated in New York on August 9, 1951 and changed its name May 25, 1959 from Specialty Electronics Development Corporation to Spedcor Electronics, Inc.;

(2) That an application for revision or refund was filed by the taxpayer on October 19, 1962 claiming a net operating loss deduction of \$120,132.88 based on carryback of a net operating loss of \$2,413,313.47 sustained during the fiscal year ended July 31, 1962;

(3) That the tax was reaudited and restated on January 31, 1964, as follows:

Entire net income as previously assessed	\$121,434.73
Less net operating loss deduction	34,284.43
Entire net income as restated	87,150.30
Tax at 5 $\frac{1}{2}$ %	4,793.27
Tax previously assessed	6,678.90
Credit	\$ 1,885.63

(4) That the Federal taxable income as finally determined for the fiscal year ended July 31, 1959, before application of the Federal net operating loss deduction, was \$115,209.57;

(5) That Internal Revenue Agent's reports dated April 7, 1961 and January 11, 1963 indicate that \$80,925.14 remaining balance of a net operating loss sustained during the fiscal year ended July 31, 1956 and \$34,284.43 of the net operating loss sustained during the fiscal year ended July 31, 1962 were applied to offset the Federal taxable income of \$115,209.57 for the fiscal year ended July 31, 1959;

(6) That section 172 of the Internal Revenue Code provides for a net operating loss deduction;

(7) That Section 208.9(f) of Article 9-A reads, in part, as follows:

"A net operating loss deduction shall be allowed which shall be presumably the same as the net operating loss deduction allowed under section one hundred seventy-two of the internal revenue code of nineteen hundred fifty-four, \* \* \* except that (1) any net operating loss included in determining such deduction shall be adjusted to reflect the inclusions and exclusions from entire net income required by paragraphs (a), (b) and (g) hereof, (2) such deduction shall not include any net operating loss sustained during any taxable year beginning prior to January first, nineteen hundred sixty-one, \* \* \* and (3) such deduction shall not exceed the deduction for the taxable year allowable under section one hundred seventy-two of the internal revenue code of nineteen hundred fifty-four, \* \* \*."

Based upon the foregoing findings and all of the evidence presented, the State Tax Commission hereby

**DETERMINES:**

(A) That only \$115,209.57 of Federal net operating losses was necessary to reduce Federal taxable income for the fiscal year ended July 31, 1959 to zero;

(B) That under clauses (2) and (3) of section 208.9(f) of Article 9-A of the Tax Law, only \$34,284.43 is allowable as a net operating loss deduction since the \$80,925.14 balance of the net operating loss sustained during the fiscal year ended July 31, 1956 must be excluded;

(C) That, accordingly, the tax as shown at (3) above is affirmed as assessed;

(D) That the aforesaid tax does not include taxes or other charges which are not legally due.

Dated: Albany, New York

this 9th day of March 19 70

**THE STATE TAX COMMISSION**

  
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**PRESIDENT**

  
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**COMMISSIONER**

  
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**COMMISSIONER**