

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of Petition

of

INNERSPRINGS, INC.

for redetermination of deficiency
of franchise tax under Article 9-A
of the tax law for the fiscal year
ended February 28, 1965.

Innersprings, Inc. having filed a petition for redetermination of deficiency of franchise tax under Article 9-A of the tax law for the fiscal year ended February 28, 1965 and a hearing having been held in connection therewith on June 9, 1971 at the office of the State Tax Commission, 80 Centre Street, New York City, before John J. Genevich, Hearing Officer of the Department of Taxation and Finance, at which hearing Philip E. Lieberman, Certified Public Accountant, appeared personally and testified, and the record having been duly examined and considered by the State Tax Commission,

It is hereby found:

(1) Innersprings, Inc. was incorporated under the laws of New York State on March 20, 1946.

(2) It filed a franchise tax report for the fiscal year ended February 28, 1965 claiming a net operating loss deduction of \$299,361.00 and paid a minimum tax of \$25.00.

(3) On February 1, 1966 the Corporation Tax Bureau issued a notice of deficiency for the fiscal year ended February 28, 1965, disallowing the net operating loss deduction, as follows:

Federal taxable income before net operating loss deduction	\$40,324.00
Tax at 5½%	2,212.87
Tax per report filed	25.00
Deficiency	\$ 2,187.87

(4) A timely petition for redetermination of such deficiency was filed.

(5) The rider submitted in support of the net operating loss deduction claimed at Item 29(a), Page 1, of the federal report for the fiscal year ended February 28, 1965, is as follows:

Loss fiscal year ended February 28, 1961	\$ 76,515
" " " " " " 1962	136,624
" " " " " " 1963	46,174
" " " " " " 1964	40,048
Total	\$299,361

(6) Section 172 of the 1954 Internal Revenue Code provides for a net operating loss deduction.

(7) Section 208.9(f) of Article 9-A of the tax law provides that:

"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 * * *, (2) such deduction shall not include any net operating loss sustained during any taxable year beginning prior to January first, nineteen hundred sixty-one, * * *."

The State Tax Commission hereby

DECIDES:

(A) That the net operating loss deduction allowed in computing the taxpayer federal taxable income for the fiscal year ended February 28, 1965 consisted of \$40,324.00 of a net operating loss sustained in the fiscal year ended February 28, 1961.

(B) That under the provisions of clause 2 of Section 208.9(f) of the tax law, the net operating loss for the fiscal year ended February 28, 1961 is required to be excluded in computing the net operating loss deduction allowed for state purposes.

(C) That the taxpayer is not entitled to a net operating loss deduction for the fiscal year ended February 28, 1965, and the notice of deficiency issued on February 1, 1966 is affirmed together with interest due under Section 1084 of the tax law.

Dated: Albany, New York

this 22 nd day of October 1971=

STATE TAX COMMISSION



President



Commissioner



Commissioner