

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

KYTE HEATING AND AIR CONDITIONING
CORPORATION
For a Redetermination of a Deficiency or
a Refund of Sales and/or Use
Taxes under Article(s) 28&29 of the
Tax Law for the ~~(Year(s))~~ Period of
Aug. 1, 1965 to Oct. 1, 1968

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Janet Wright, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 9th day of July, 1970, she served the within
Notice of Decision (or Determination) by (certified) mail upon Richard W.

Johnson CPA (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Richard W. Johnson CPA
128 Prospect Place
Riverhead, New York 11901

and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) petitioner herein and that the address set forth on said wrapper is the last
known address of the (representative of the) petitioner.

Sworn to before me this

9th day of July, 1970.

Marie Buckley

Janet Wright

STATE OF NEW YORK
STATE TAX COMMISSION

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KYTE HEATING AND AIR CONDITIONING
CORPORATION

For a Redetermination of a Deficiency or
a Refund of Sales and/or Use

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State of New York
County of Albany

Janet Wright, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 9th day of July, 1970, she served the within
Notice of Decision (or Determination) by (certified) mail upon Kyte Heating
and Air Conditioning (representative of) the petitioner in the within
Corporation proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Kyte Heating & Air Conditioning
Corporation
132 West Montauk Highway
Hampton Bays, New York
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) petitioner herein and that the address set forth on said wrapper is the last
known address of the (representative of the) petitioner.

Sworn to before me this

9th day of July, 1970.

Marie Buckley

Janet Wright

STATE OF NEW YORK

STATE TAX COMMISSION

| | | |
|---|---|---------------|
| In the Matter of the Application | : | |
| of | : | |
| KYTE HEATING AND AIR CONDITIONING CORP. | : | DETERMINATION |
| for Revision of a Determination or for | : | |
| Refund of Sales and Use Taxes under | : | |
| Article 28 of the Tax Law for the periods | : | |
| <u>August 1, 1965 to October 21, 1968</u> | : | |

Kyte Heating and Air Conditioning Corp., a vendor registered pursuant to Article 28 of the Tax Law, has applied for revision of a determination or for refund of sales and use taxes for the periods August 1, 1965 to October 21, 1968.

A formal hearing was held in the offices of the State Tax Commission in the City of New York on October 28, 1969, before Lawrence A. Newman, Hearing Officer. The vendor appeared through Richard W. Johnson, CPA. The Sales Tax Bureau was represented by Edward H. Best, Esq., (Albert J. Rossi, Esq. of counsel).

FINDINGS OF FACT

1. On January 20, 1969, the Sales Tax Bureau issued a notice of determination, numbered 90,252,693, in the amount of \$4493.40, plus statutory penalty and interest.

The determination was made based upon an audit of the vendor's records. Additional sales and use taxes were asserted on (1) service labor which had been excluded from the vendor's computations of taxable sales, and (2) upon sales of materials to contractors who had erroneously furnished the vendor with exempt organization certificates, and had not paid the applicable sales taxes.

2. On April 18, 1969, the vendor's representative filed the equivalent of an application for redetermination.

3. The vendor has not sustained the burden of proof to overcome the findings of the Sales Tax Bureau of additional sales and purchases subject to the sales and use tax as a result of its audit of the vendor's records.

DETERMINATION

A. The audit findings of the Sales Tax Bureau are correct within the meaning and intent of Articles 28 and 29 of the Tax Law.

B. The notice of determination and demand is correct and is sustained.

C. The application for revision of the determination is denied.

DATED: Albany, New York
July 7, 1970

STATE TAX COMMISSION

Norman Gellman
COMMISSIONER

Bruce Mauley
COMMISSIONER

Milton Koenig
COMMISSIONER