

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SPORTONICS CORPORATION

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Sales and Use :
Taxes under Article(s) 28 and 29 of the :
Tax Law for the ~~Year(s)~~ or Period(s) :
December 1, 1969 through February 28, 1974.

State of New York
County of Albany

John Huhn , 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 14th day of February , 1978 , she served the within
Russell L. Strongman, Pres.
Notice of Determination by ~~certified~~ mail upon Sportonics Corporation

~~(representative of)~~ the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
Russell L. Strongman, Pres.

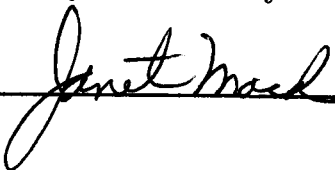
as follows: Sportonics Corporation
Fort Montgomery Marina
Fort Montgomery, New York 10922

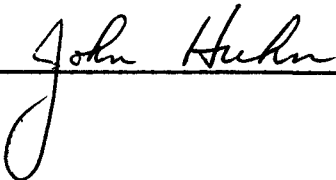
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~
~~of the~~ 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

14th day of February , 1978.





MEMORANDUM FOR THE RECORD

DATE: 10/10/50

TO: SAC, NEW YORK

FROM: SAC, NEW YORK

SUBJECT: [REDACTED]

RE: [REDACTED]

DATE: 10/10/50

TO: SAC, NEW YORK

FROM: SAC, NEW YORK

SUBJECT: [REDACTED]

RE: [REDACTED]

DATE: 10/10/50

TO: SAC, NEW YORK

FROM: SAC, NEW YORK

SUBJECT: [REDACTED]

RE: [REDACTED]

DATE: 10/10/50

TO: SAC, NEW YORK

FROM: SAC, NEW YORK

SUBJECT: [REDACTED]

RE: [REDACTED]

DATE: 10/10/50

TO: SAC, NEW YORK

FROM: SAC, NEW YORK



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

February 14, 1978

**Russell L. Strongman, President
Sportonics Corporation
Fort Montgomery Marina
Fort Montgomery, NY 10922**


Dear Mr. Strongman:

Please take notice of the **Determination**
of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **1138 & 1243** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,


**Joseph Chyorny
Hearing Examiner**

cc: ~~Enrollment Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
SPORTONICS CORPORATION	:	DETERMINATION
for Revision of a Determination or for	:	
Refund of Sales and Use Taxes under	:	
Articles 28 and 29 of the Tax Law for	:	
the Period December 1, 1969 through	:	
February 28, 1974.	:	

Applicant, Sportonics Corporation, Fort Montgomery Marina, Fort Montgomery, New York 10922, filed an application for revision of a determination or for refund of sales and use taxes under Articles 28 and 29 of the Tax Law for the period December 1, 1969 through February 28, 1974 (File No. 10306).

A small claims hearing was held before Joseph A. Milack, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on June 16, 1977. Applicant appeared by Russell L. Strongman, president. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Louis Senft, Esq., of counsel).

ISSUE

Whether the determination of additional sales taxes due for the period December 1, 1969 through February 28, 1974, based upon an audit of applicant's books and records, was correct.

FINDINGS OF FACT

1. On July 15, 1974 as the result of a field audit, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against the applicant, Sportonics Corporation, for taxes due of \$4,056.03, plus penalty and interest, for the period December 1, 1969 through February 28, 1974.

2. The aforementioned Notice was not timely with regard to the period December 1, 1969 through February 28, 1971. Therefore, the additional taxes of \$3,291.99 determined to be due for this period were cancelled. The amount now at issue is \$764.04.

3. The Sales Tax Bureau's auditor reviewed sales invoices and bills of sales for the test period March 1, 1970 through May 31, 1970. As a result of said review, 41.46 percent of the nontaxable sales reported by the applicant were disallowed.

4. The auditor compared gross sales reported with total bank deposits (where bank statements were available) and found that bank deposits were 42 percent greater than reported gross sales. As a result of said comparison, applicant's gross sales were increased by 25 percent, and said increase was deemed to be from taxable transactions. The 17 percent difference represented an allowance for bank deposits from sources not subject to tax.

5. Applicant contended that a portion of the nontaxable sales disallowed by the Sales Tax Bureau were sales of boats to nonresidents, where delivery was made outside New York State. The applicant also contended that an insufficient allowance was made for trade-ins and that no allowance was made for deposits from other nontaxable sources.

6. The applicant presented no documentary or other substantial evidence to support the above contentions.

CONCLUSIONS OF LAW

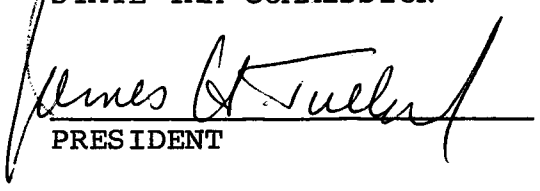
A. That the Sales Tax Bureau's examination of applicant's books and records was properly conducted in accordance with the meaning and intent of section 1138(a) of the Tax Law, and that the results thereof were correct.

B. That the application of Sportonics Corporation is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued July 15, 1974 and adjusted to reflect a tax due of \$764.04, is sustained.

DATED: Albany, New York

February 14, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER