

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

AFFIDAVIT OF MAILING

LAKELAND FARMS COMPANY

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Highway Use :
Taxes under Article ~~(8)~~ 21 of the :
Tax Law for the ~~XXXXXX~~ Period ~~(X)~~ :
January 1, 1970 through June 18, 1970.

State of New York
County of Albany

Catherine Steele, 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 24th day of August, 1976, she served the within
Notice of Determination by ~~(certified)~~ mail upon Lakeland Farms Company

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Lakeland Farms Company
Dresden, New York 14441

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 the)~~
~~(XXXX)~~ 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

24th day of August, 1976

Catherine Steele

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

August 24, 1976

TELEPHONE: (518) **457-3850**

Lakeland Farms Company
Dresden, New York 14441

Gentlemen:

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

Please take further notice that pursuant to
Section ~~XX~~ **510** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **30 days**
from the date of this notice.

Inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned. They
will be referred to the proper party for reply.

Very truly yours,

Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
cc. Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
LAKELAND FARMS COMPANY	:	DETERMINATION
for Redetermination of Highway Use Taxes	:	
due under Article 21 of the Tax Law for	:	
the Period January 1, 1970 through	:	
June 18, 1970.	:	

Petitioner, Lakeland Farms Company, Dresden, New York 14441, has filed a petition for the redetermination of highway use taxes due under Article 21 of the Tax Law for the period January 1, 1970 through June 18, 1970. A formal hearing was held before Julius E. Braun, Esq. at the offices of the State Tax Commission, State Office Building, Syracuse, New York, on March 29, 1976 at 1:30 p.m. Petitioner appeared by Allen C. Kingsley, a partner, pro se. The Miscellaneous Tax Bureau appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether petitioner's vehicles were exempt from the highway use tax by reason of use of such vehicles in relation to farming as provided by section 504(3) of the Tax Law.

FINDINGS OF FACT

1. On September 16, 1975, the Miscellaneous Tax Bureau issued an Assessment of Unpaid Truck Mileage Tax against the petitioner, Lakeland Farms Company, imposing an additional tax due for the period January 1, 1970 through June 18, 1970 in the amount of \$1,286.49 plus penalty and interest accumulated to September 20, 1975 in the amount of \$578.92 for a total amount of \$1,865.41.

2. The petitioner, Lakeland Farms Company, a partnership whose primary business is the ownership of laying chickens and sale of eggs for market, contracted with various farmers within a radius of one hundred miles to use their facilities for the production of eggs. Not one of these farms was contiguous to their farm. These farmers, known as grower producers, would furnish the necessary land, buildings, equipment, labor and other facilities for the proper light, water, care, maintenance and development, and laying of the flock. They would follow a proper feeding program, allow inspection of the premises and flock at any time, and keep daily records covering flock mortality, egg production and feed consumption. Lakeland Farms Company would furnish and deliver to the grower producer a specified number of pullets, all necessary feed, litter brooding

costs, replacement light bulbs, egg detergent, vaccination and medication. Title to all pullets, layers, eggs, medication bags and feed would remain with Lakeland Farms Company.

3. The petitioner, Lakeland Farms Company, owned four or five trucks that were used in their egg business. They hauled feed, production supplies and pullets to the grower producers from various suppliers and carted the eggs to their farm in Dresden for processing and shipment. The eggs were then trucked to market. None of the vehicles were used exclusively with respect to their farm in Dresden.

CONCLUSIONS OF LAW

A. That the petitioner, Lakeland Farms Company, is not entitled to the exemption provided by section 504(3) of the Tax Law which applies only where the vehicles otherwise subject to tax are used exclusively (a) by a farmer to transport commodities raised on his own farm, (b) by a farmer to transport supplies to his own farm, or (c) by a farmer to transport products from his own farm or a farm contiguous thereto.

B. That the exemption as provided by section 504(3) of the Tax Law does not apply to a vehicle which is used to any degree with respect to farms neither owned nor leased by the farmer claiming the exemption.

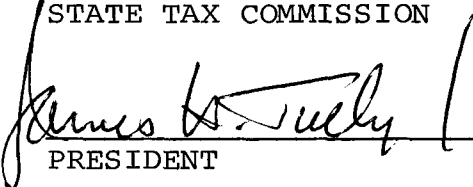
C. That the farms, the owners of which are under contract to the petitioner, Lakeland Farms Company, are not thereby the farm of the taxpayer within the meaning of the exemption as provided by section 504(3) of the Tax Law.

D. That the vehicles subject to assessment were not used exclusively by the petitioner, Lakeland Farms Company, with respect to farms which qualify for exemption provided by section 504(3) of the Tax Law.

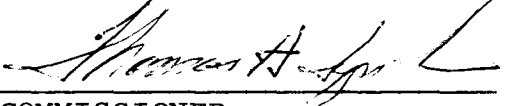
E. That the determination dated September 16, 1975 assessing unpaid truck mileage tax is sustained together with such penalties and interest as may be lawfully due pursuant to section 512(3) of the Tax Law. The petition of Lakeland Farms Company is denied.

DATED: Albany, New York
August 24, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER