

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

GREEN MEADOW ^{of} STABLES, INC. and
ROLLAND TREMBLAY and MARILYN TREMBLAY

AFFIDAVIT OF MAILING

Individually and as Officers
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) :
9/1/71 through 11/30/74.

State of New York
County of Albany

Bruce Batchelor , 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 10th day of December , 19 76, she served the within
Notice of Determination by (~~certified~~) mail upon and Rolland Tremblay and
Individually and as Officers Marilyn Tremblay
~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Green Meadow Stables, Inc.
Rolland Tremblay and Marilyn Tremblay
2 Rod Road
East Aurora, 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 Postal Service within the State of New York.

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

10th day of December , 19 76

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
GREEN MEADOW STABLES, INC. and
Rolland Tremblay and Marilyn Tremblay
Individually and as Officers
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 ~~XXXXX~~ or Period(s)
9/1/71 through 11/30/74

AFFIDAVIT OF MAILING

State of New York
County of Albany

Bruce Batchelor, 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 10th day of December, 1976, she served the within
Notice of Determination by ~~(certified)~~ mail upon John T. Frizzell, Esq.

(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: John T. Frizzell, Esq.
Williams, Stevens, McCarville & Frizzell, P.C.
1920 Liberty Bank Building
Buffalo, NY 14202
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) 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

10th day of December, 1976

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

December 10, 1976

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

Green Meadow Stables, Inc.
Rolland Tremblay and Marilyn Tremblay
2 Rod Road
East Aurora, New York

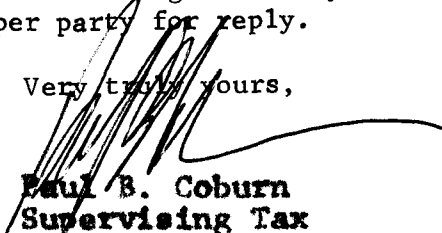
Dear Mr. & Mrs. Tremblay:

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

Please take further notice that pursuant to
Section(s) **1138 and 1243** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
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.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
GREEN MEADOW STABLES, INC. and	:	
ROLLAND TREMBLAY and MARILYN TREMBLAY	:	
Individually and as Officers	:	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 September 1, 1971 through	:	
November 30, 1974.	:	

Applicants, Green Meadow Stables, Inc., Rolland Tremblay and Marilyn Tremblay, 2 Rod Road, East Aurora, New York, have 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 September 1, 1971 through November 30, 1974. (File No. 00011105). A formal hearing was held before Julius E. Braun, Esq., Hearing Officer, at the offices of the State Tax Commission, State Office Building, Buffalo, New York, on June 9, 1976, at 12:15 P.M. Applicants appeared by John T. Frizzel, Esq. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Richard Kaufman, Esq. of counsel).

ISSUE

Are hourly charges for horseback riding on horses supplied by corporate applicant and ridden by said applicant's customers on its premises, subject to sales tax?

FINDINGS OF FACT

1. Applicant, Green Meadow Stables, Inc., timely filed New York State and local sales and use tax returns for the period September 1, 1971 through November 30, 1974.

2. On July 28, 1974, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against applicants, Green Meadow Stables, Inc., Rolland Tremblay and Marilyn Tremblay, individually, and as officers, for the period September 1, 1971 through November 30, 1974, in the amount of \$13,077.84, including penalties and interest.

3. Applicant, Green Meadow Stables, Inc., in the period at issue, operated a riding stable of approximately forty to forty-five horses, which its customers were permitted to ride at the rate of five dollars per hour in a ring and in a fenced-in area of trails on 40 acres of woodlands. The horses were equipped by Green Meadow Stables, Inc., with the proper saddles for riding.

4. The horseback riding in which the customers of Green Meadow Stables, Inc. participated was an activity which involved substantial physical exercise on the part of said customers.

5. Green Meadow Stables, Inc. did not collect sales tax on the aforementioned hourly charges for horseback riding.

CONCLUSIONS OF LAW

A. That the hourly charges imposed by applicant, Green Meadow Stables, Inc., for horseback riding on horses supplied by said applicant to its customers and ridden by said customers on applicant's premises, constituted, in view of the showing of substantial physical exercise, charges to a patron for admission to, or use of, facilities for sporting activities in which the patron was to be a participant, within the meaning and intent of section 1105(f)(1) of the Tax Law.

B. That said hourly charges were, therefore, not subject to sales tax.

C. That the application of Green Meadow Stables, Inc., Rolland Tremblay and Marilyn Tremblay, is granted and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due, issued July 28, 1974, is hereby cancelled.

DATED: Albany, New York
December 10, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER