

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-334-603-264
)	
Petitioner.)	DECISION
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(Petitioner) protested the Notice of Deficiency Determination (Notice) dated October 6, 2023, for the period of January 1, 2020, through December 31, 2022 (Audit Period). The Idaho State Tax Commission (Tax Commission), having reviewed the file, hereby upholds the Notice.

BACKGROUND

Petitioner is a horse boarding facility where customers may also reserve a spot to camp and park their recreational vehicle and/or reserve a room for rent. Petitioner did not have a seller’s permit, or a travel and convention permit when the staff of the Tax Discovery Bureau (Bureau) sent a letter requesting information for all sales and purchases during the Audit Period¹. Petitioner provided the requested information, including the amount of non-taxed hay used in the course of business.

The Bureau determined Petitioner owed sales tax and travel and convention tax on the boarding charges for humans, sales tax for the boarding of horses, and use tax on all the purchases of hay. The Bureau sent a billing letter detailing these matters. Petitioner agreed with the assessment for the travel and convention tax and submitted payment to the Bureau for the amount due. Petitioner did not express disagreement with the sales tax assessment on boarding charges for

¹ Petitioner registered and received their Sales and Use Tax permit and Travel and Convention permit in

horses or humans but protested the use tax assessment on purchases of hay. The Bureau issued a Notice on October 6, 2023.

Petitioner appointed another individual (Representative) to represent them in matters with the Tax Commission. Representative sent a letter stating their desire for an informal hearing due to their disagreement on the taxation of hay. The Bureau sent a letter on October 26, 2023, acknowledging the protest.

The Bureau transferred Petitioner's file to the Tax Commission's Appeals unit (Appeals). On February 5, 2024, Appeals sent Petitioner and Representative letters outlining the options available for redetermining a protested Notice. Representative responded by telephone on February 12, 2024, and scheduled the informal hearing for March 4, 2024.

At the informal hearing, Petitioner and Representative asked who would be responsible for tax if neither customer nor vendor in a sales transaction has a seller's permit. A discussion followed about the responsibilities of sales tax, but the parties in the hearing could not reach a consensus. Unable to resolve matters further, the Tax Commission renders its decision based on the information provided.

LAW & ANALYSIS

The Tax Commission responded to the following matters as identified in Petitioner's protest. (1) Sales involving farmers are exempt (hereafter referred to as *Agricultural Exemption*); and (2) It was not the responsibility of Petitioner to collect sales tax.

AGRICULTURAL EXEMPTION

Idaho Code section 63-3622D(2) lists business operations qualifying for the *Agricultural Exemption* as:

Tangible personal property primarily and directly used or consumed in or during a manufacturing, processing, mining, farming, fabricating, hunting or fishing

operation, including, but not limited to, repair parts, lubricants, hydraulic oil, and coolants, which become a component part of such tangible personal property and including, but not limited to, ammunition, birds, fish or other wildlife; provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation.

Petitioner stated they are in the *Farming* industry. If they are in the *Farming* industry, then their business operations should fit within the definition as set forth in IDAPA 35.01.02.083.01 as:

In General. Farming includes custom farming and the operation of a farm or ranch, and includes stock, dairy, poultry, fish, fur, fruit and truck farms, ranches, ranges, and orchards operated with the intention of making a gain or profit. Farming does not include operation of ranches or stables where the sole purpose is showing or racing horses, or the breeding of show or race horses.

Petitioner as a horse boarding facility is specifically excluded in the discussion of *Farming*.

Therefore, the hay purchased from Petitioner does not qualify for this exemption.

THE RESPONSIBILITY OF TAX

When sales tax is not paid to the vendor at the time of purchase, use tax is due from the customer, in this case, Petitioner. Idaho Code section 63-3621(1) describes use tax as:

An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after October 1, 2006, for storage, use, or other consumption in this state at the rate of six percent (6%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.

Petitioner, as previously discussed, did not pay sales tax when purchasing hay, and therefore owe use tax on it/the hay. The application and payment for use tax is discussed in IDAPA 35.01.02.072.

The responsibilities for use tax owed by Petitioner are further discussed in Idaho Code section 63-3621(2):

Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state, except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

The Tax Commission has reviewed Petitioner’s business and determined that the purchases of hay are taxable, and that Petitioner is responsible for the tax. Therefore, the Tax Commission finds the Notice to be an accurate representation of Petitioner’s tax liability for the Audit Period. Interest is calculated at the rate set forth in Idaho Code section 63-3045(6) until paid.

THEREFORE, the modified Notice is hereby APPROVED in accordance with the provisions of this decision and is AFFIRMED and MADE FINAL.

IT IS ORDERED that Petitioner pay the following tax, penalty, and interest:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$3,955	\$197	\$397	\$4,549

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of Petitioner’s right to appeal this decision is enclosed.

DATED this _____ day of _____ 2024.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2024,
a copy of the within and foregoing DECISION was served by sending the same by United States
mail, postage prepaid, in an envelope addressed to:

Receipt No.
