

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**


In the Matter of the Protest of



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Petitioner.

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DOCKET NO. 0-689-411-072  
  
DECISION

 (Petitioner) protested the Notice of Deficiency Determination (Notice) issued by the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Tax Commission). The Notice was subsequently modified on June 12, 2025. The modified Notice proposed sales tax, penalty, and interest for the audit period of March 1, 2018, through December 31, 2024, in the total amount of \$7,297. After administrative review, the Tax Commission hereby upholds the modified Notice for the reasons set forth below.

**BACKGROUND**

Petitioner, an Idaho resident, operates a dog breeding facility offering professional breeding practices and puppy development services both locally and in surrounding communities. These services include genetic health screening, proper socialization, breeding program management, puppy placement, health monitoring and ongoing support. However, Petitioner did not hold an Idaho seller’s permit before engaging in business activities within the state.

The Bureau initially sent Petitioner a letter requesting that she complete an Idaho Business Registration application (IBR) and submit sales information for unpermitted periods from January 1, 2018, through September 30, 2024. The Bureau followed up with Petitioner by phone and email on Nov. 5, providing an explanation of sales tax law and the reason for the sales information request. Petitioner agreed to provide the sales data and informed the Bureau that some of the sales made during the review period were for out-of-state customers.

The Bureau allowed Petitioner additional time to provide the requested sales information, but several months passed without a response. Therefore, the Bureau estimated Petitioner's sales tax liability based on the gross receipts reported on her federal Form 1040, Schedule C, and sent her a billing letter. Petitioner responded, providing in-state and out-of-state sales data, requesting that the billing letter be updated, the penalty be waived, and a payment arrangement be established.

The Bureau reviewed Petitioner's sales data and on April 3, 2025, issued a Notice that included a \$3,000 civil penalty for failure to complete the IBR and obtain an Idaho seller's permit as required. Petitioner protested the Notice, asserting that she had applied for a seller's permit, and contended that her reported sales were tax inclusive. Petitioner's protest letter also included a request for the abatement of penalty and interest.

The Bureau confirmed receipt of Petitioner's application for a seller's permit and issued a modified Notice on June 12, 2025, removing the \$3,000 civil penalty and updating the penalty and interest. Petitioner continued to disagree with the modified Notice. The Bureau then forwarded the case to the Tax Commission's Appeals Unit (Appeals) for administrative review. Appeals sent Petitioner a letter outlining the options for redetermining a protested Notice. However, Petitioner did not respond.

Therefore, the Tax Commission, having reviewed all available information, hereby issues its decision.

## **LAW & ANALYSIS**

The primary issues for this decision are whether Petitioner's puppy sales prices were tax-inclusive, and whether interest and penalty should be waived.

### **SELLER'S PERMIT REQUIREMENT**

Idaho Code section 63-3620 (a) provides the requisites for a seller's permit:

(a) Every retailer engaged in business in this state, before conducting business within this state, shall file with the state tax commission an application for a seller's permit. Every application for a permit shall be made upon a form prescribed by the state tax commission and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the state tax commission may require. The applications, or any information contained thereon, may be made available by the tax commission to authorized representatives of state or federal agencies. The application shall be signed by the owner if he is a natural person or by an individual authorized by the seller to sign the application. Except as provided in subsection (f) of this section, permits shall be issued without charge.

Pursuant to Idaho Code section 63-3620 (a), every retailer engaged in business in this state must obtain a valid seller's permit before conducting business within the state. Petitioner failed to apply for a seller's permit before engaging in retail sales of puppies in Idaho.

#### SALES PRICE INCLUSION

Idaho Code section 63-3613 (a) addresses the sales price inclusion:

(a) The term "sales price" means the total amount for which tangible personal property, including services agreed to be rendered as a part of the sale, is sold, rented or leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

1. The cost of the property sold.
2. The cost of materials used, labor or service cost, losses, or any other expense.
3. The cost of transportation of the property prior to its sale.

According to this statute, the sales price includes the total amount paid for tangible personal property and any services rendered as part of the sale. Petitioner submitted information regarding both in-state and out-of-state puppy sales, including the quantities sold during each audit year. The total receipts from her in-state sales are subject to Idaho sales tax.

#### Imposition and Collection Requirements

Idaho Code section 63-3619 (a)-(e) addresses the requirements for imposing and collecting the sales tax:

**IMPOSITION AND RATE OF THE SALES TAX.** An excise tax is hereby imposed upon each sale at retail at the rate of six percent (6%) of the sales price of

all retail sales subject to taxation under this chapter and such amount shall be computed monthly on all sales at retail within the preceding month.

(a) The tax shall apply to, be computed on, and collected for all credit, installment, conditional or similar sales at the time of the sale or, in the case of rentals, at the time the rental is charged.

(b) The tax hereby imposed shall be collected by the retailer from the consumer.

(c) The state tax commission shall provide schedules for collection of the tax on sales which involve a fraction of a dollar. The retailer shall calculate the tax upon the entire amount of the purchases of the consumer made at a particular time and not separately upon each item purchased. The retailer may retain any amount collected under the bracket system prescribed which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting the tax.

(d) It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded. Any person violating any provision of this section is guilty of a misdemeanor.

(e) The tax commission may by rule provide that the amount collected by the retailer from the customer in reimbursement of the tax be displayed separately from the list price, the price advertised on the premises, the marked price, or other price on the sales slip or other proof of sale.

Pursuant to Idaho Code section 63-3619, sales tax is imposed, computed and collected at the time of sale on each retail transaction. Retailers are responsible for collecting the sales tax from their customers and displaying it separately from the listed or advertised price on the sales slip or other proof of sale.

Petitioner argues that the reported total sales “did not include separately stated sales tax. Under Idaho tax rules, this means the gross receipts should be treated as tax inclusive.” The Tax Commission finds that Petitioner’s interpretation of Idaho Code is not supported by the statute. The absence of separately stated sales tax does not indicate that the gross receipts were tax inclusive. Therefore, the Tax Commission determined that the total amount shown in Petitioner’s information represents the sales price, and sales tax must be computed on that amount.

Idaho Code section 63-3623 addresses returns and payment requirement:

RETURNS AND PAYMENTS. (a) The taxes imposed by this act are due and payable to the state tax commission monthly on or before the twentieth day of the succeeding month.

(c) On or before the twentieth day of the month a return shall be filed with the state tax commission in such form as the state tax commission may prescribe.

(d) For the purpose of the sales tax, a return shall be filed by every seller.

(e) For the purposes of the sales tax, the return shall show the total sales at retail subject to tax under this act during the reporting period.

(f) The return shall show the amount of the taxes for the period covered by the return and such other information as the state tax commission deems necessary for the proper administration of this act.

(g) The person required to file the return shall mail or deliver the return together with a remittance of any tax due to the state tax commission for the reporting period.

Under Idaho Code section 63-3623, each seller is required to file sales tax returns and remit the tax collected to the Tax Commission. Even if Petitioner's sales prices were tax-inclusive, she failed to file Idaho sales tax returns and remit the collected tax to the Tax Commission.

#### PENALTY AND INTEREST

Idaho Code section 63-3046 (c) (d) & (g) imposes penalty to nonfilers:

PENALTIES AND ADDITIONS TO THE TAX IN CASE OF DEFICIENCY. (c) (1) In the event the return required by this chapter is not filed on or before the due date (including extensions) of the return, there may be collected a penalty of five percent (5%) of the tax due on such returns for each month elapsing after the due date (including extensions) of such returns until the return is filed.

(d) (1) If there is a substantial understatement of tax for any taxable year, there shall be added to the tax an amount equal to ten percent (10%) of the amount of any underpayment attributable to such understatement.

(2) For purposes of this subsection, there is a substantial understatement of tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of:

(i) Ten percent (10%) of the tax required to be shown on the return for the taxable year, or

(ii) Five thousand dollars (\$5,000).

(g) Total penalties imposed under subsections (a), (c) and (d) of this section and under section 63-3033, Idaho Code, shall not exceed twenty-five percent (25%) of the tax due on the return.

Petitioner failed to file any sales tax returns prior to 2025. Therefore, the Bureau properly applied a 25% penalty for failure to file.

Idaho Code section 63-3045(7)(a) and (b) address the accrual of interest on unpaid tax:

(7)(a) Interest **shall** apply to deficiencies in tax and refunds of tax...

(b) Interest upon any deficiency shall be assessed at the same time as the deficiency, shall be due and payable upon notice and demand from the state tax commission and shall be collected as a part of the tax at the rate per annum determined under the provisions of paragraph (c) of this subsection from the date prescribed for the payment of the tax...

Interest is a statutory requirement. As required by statute, interest shall be assessed, calculated, and collected once a deficiency is determined. Therefore, the Tax Commission upholds the addition of interest to Petitioner's tax deficiency.

### CONCLUSION

The Tax Commission finds that Petitioner's in-state sales are subject to Idaho sales tax. Petitioner did not obtain the required Idaho seller's permit before making retail sales, failed to file sales tax returns, did not remit sales tax due, and failed to demonstrate that the sales tax was separately charged to customers.

The Bureau's modified Notice accurately reflects the sales tax, penalty, and interest due. The Tax Commission reviewed the additions and found them to be appropriate per Idaho Code sections 63-3045 and 63-3046. Interest has been updated accordingly.

THEREFORE, the modified Notice of Deficiency Determination dated June 12, 2025, is hereby AFFIRMED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2018 - 2024	\$5,106	\$1,277	\$991	\$7,374

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 \_\_\_\_\_ 2026.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2026,  
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.

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