

018. RETAILER DEFINED (RULE 018).

[Sections 63-3610 and 63-3611, Idaho Code](#)

01. Retailer. The term retailer includes a person doing a regularly organized retail business in tangible personal property and defined services and selling to the user or consumer, not for resale. Retailer includes commission salesmen, sales at auctions, [out-of-state sellers that must overcome the presumption defined in Section, 63-3611, Idaho Code](#), assignees for the benefit of creditors, receivers and any salesmen, representatives, peddlers, or canvassers as agents of the dealers, distributors, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Tax Commission may so regard them and may regard the dealers, distributors, supervisors or employers as retailers. (7-1-93)()

02. Retailers Selling Incidental Tangible Personal Property. A person may be a retailer within the meaning of the act although the sale of tangible personal property is incidental to his general business. For example, a plumbing contractor may sell some plumbing supplies as a sideline and thereby become a retailer within the meaning of this act. (7-1-93)

03. Farmers. Farmers who ordinarily sell their grain, livestock and other horticultural products for resale or processing are not subject to tax. However, when they sell to ultimate consumers or users, they must obtain a seller's permit and report sales tax on their taxable sales. (7-1-93)

04. An Agent as a Retailer. Where there is a written agreement between a principal and his agent, dealer or other third party, and such agreement stipulates that the agent, dealer or other third party will be responsible for collection, reporting and payment of sales tax generated by sales, the Tax Commission will treat the position of the agent, dealer or third party as that of a retailer and impose on him the burden of collecting, accounting for, and paying the sales tax to the State Tax Commission. (7-1-93)

a. However, if for example, a milk route salesman, without such an agreement, makes regular deliveries, collects for the products, and sales tax is included in the total proceeds collected and remitted to the principal for proper crediting, accounting, discounts, etc., then it shall be the responsibility of the principal to relay the sales tax with proper reporting forms as prescribed by law. (7-1-93)

b. In some instances, such as the above, and the example of a newspaper delivery boy, the sales are actually made on behalf of the dairy and the newspaper company respectively. In the absence of any such written agreement, the Tax Commission will look to the principal as being responsible for the reporting and payment of the sales tax. (7-1-93)