

The Boarding Farm Operator and "The State Sales Tax"
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While the names have been changed to protect the privacy of others, this story is true and should be read by all persons operating a commercial horse boarding operation in New York State.

James and Mary have been operating a commercial horse boarding operation for over seventeen years. For ten of those years they also operated a small retail business and charged a sales tax on goods sold within the store. Seven years ago they sold the retail part of the business, continued boarding horses, and did not charge sales tax to their boarding customers. The Department of Taxation and Finance recently contacted the couple and notified them that they must charge, and should have been charging, sales tax on the boarding fees they collect. They are now faced with paying a significant amount in back taxes to compensate for not charging sales tax. -- This includes an estimated amount of tax, interest and penalties for all of the years not paid. In trying to figure out why they were contacted by the Department of Taxation and Finance, they discovered that they had been reported by a competitor.

Could this be your story? Have you been either paying or charging the required sales tax in your horse boarding operation? Do you even know what you should be paying on and what you should be charging for? Better still are you on good terms with your competitors or ex-boarders? All good questions for the average horse boarding farmer to consider and do some soul searching.

SALES TAX EXEMPTION ON FARM-RELATED PURCHASES

In 2000, New York State law was expanded to provide significant sales tax relief on farm-related (including commercial horse boarding operations) purchases. The detailed information can be found in Department of Taxation and Finance Publication, "TSB-M-00(8)S, Sales Tax, Farmers and Commercial Horse Boarding Operations" dated September 13, 2000. This can be found on their website: <http://www.tax.state.ny.us/>

A short listing of items covered as non-taxable is as follows:

1. **Exemptions for tangible personal property** - Beginning September 1, 2000, purchases of tangible personal property, whether or not incorporated into a building or structure, are exempt from state and local sales and use taxes when the property is used or consumed predominantly either in farm production or in a commercial horse boarding operation, or in both.
2. **Computers** - The purchase of a computer would qualify for exemption from the state and local sales and use taxes if the computer is used predominantly either in farm production or in a commercial horse boarding operation, or in both.
3. **Building Materials** - Purchases of building materials are exempt from state and local sales and use taxes when the materials are used to erect, add to, alter, improve, install, maintain, service, or repair a structure or

building or other real property, property, or land, used predominantly either in farm production or in a commercial horse boarding operation, or in both.

4. **Machinery or Equipment** - As of September 1, 2000, purchases of machinery or equipment or other tangible personal property that is permanently installed in a structure or building or real property, property, or land, used predominantly either in farm production or in a commercial horse boarding operation, or in both, also qualify for the exemption from sales and use taxes.
5. **Exemptions for services** - Purchases of the service of maintaining, servicing, or repairing real property, property, or land used predominantly either in farm production or in a commercial horse boarding operation, or in both, are also exempt from state and local sales and use taxes.
6. **Exemption for motor vehicles** - Motor vehicles, trailers, all-terrain vehicles, motorcycles, boats and snowmobiles that are for use predominantly either in farm production or in a commercial horse boarding operation, or in both, may be purchased exempt from New York State and local sales and use taxes on and after September 1, 2000, regardless of the type of license plate used on the vehicle.
7. **Exemption for utilities, utility services, motor fuel and diesel motor fuel** - Purchases of fuel (not including motor fuel or diesel motor fuel), gas, electricity, refrigeration, or steam, or of gas, electric, refrigeration, or steam service that is used or consumed either in farm production or in a commercial horse boarding operation, or in both, are exempt from state and local sales and use taxes (but continue to be subject to local taxes in New York City) on and after September 1, 2000.

SALES TAXES YOU SHOULD BE CHARGING

Almost on a weekly basis, we at the NYS Horse Council receive telephone calls asking "When should I charge sales tax?"

New York Farm Bureau and the New York State Horse Council recently met with the State Department of Taxation and Finance to ask just this question on behalf of commercial horse boarders. In the end, you will find that almost all goods and services are taxable (see sidebar). The only exceptions that are not taxable are; instruction, leasing of facilities to other than boarders, and incidental trailering for non-boarders.

IS THAT AN OOPS?

Well now that we have passed on the good (or otherwise) word, did I hear a collective "oops" out there? Have you been a good taxpayer and done your patriotic, and financial, duty to your state and county? If so - congratulations, you can sleep well tonight. If not, what do you do?

1. **If you are new to the business** - Get to your local Department of Taxation and Finance office, register, pay your taxes and get legal.

2. **If you have been in business for a number of years** - You basically have two options.
 - a. **Voluntary Disclosure Unit** - You can contact the voluntary disclosure unit at 1-800-972-1233 and work out a method of meeting your past obligations. As our contact said, they are more interested in reaching an equitable solution that allows you to stay in business than in obtaining every ounce of blood.
 - b. **Tax Amnesty Program** - There is always an eternal hope that a new tax amnesty program will be established. When and if it does, it will probably mean that the Department will waive the penalty and lower the interest rate by 2%.

So you have a decision to make. Fess up early and hope the system will be lenient or wait and hope for an amnesty program. Either way it does not make for easy sleeping. If you have any questions please contact the Horse Council, New York Farm Bureau or the Department of Taxation and Finance.

SIDEBAR

Boarding normally consists of what is called "Care, Custody and Control" and also instructing riders or training/retraining horses. So here are the items I have put together for the subject at hand.

"Care, Custody and Control" -- **Taxable in New York State.**

1. Feeding
2. Watering
3. Mucking (cleaning stalls)\ Grooming
4. Exercising (riding or hot walker)
5. Blanketing (cold/wet weather)
6. Spraying for flies
7. Cleaning off Bot eggs
8. Worming
9. Holding for Farrier or for Vet
10. Administering Shots
11. Nursing Care
12. Calling Farrier or Vet
13. Buying & Administering special feeds or supplements
14. Maintenance of tack
15. Resale of tack
16. Burial of dead animals

Instruction, Training and Showing -- **Non-taxable in New York State**

1. Teaching and/or training/retraining of horses
2. Teaching group lessons
3. Teaching individual lessons
4. Use of indoor riding arena by non boarders
5. Use of jumps by non boarders
6. Trailering to shows or elsewhere

7. Animal prep for show
8. Running local shows
9. Leasing jumps to another show
10. Leasing facilities to another show group
11. Use of tack
12. Training of horse
13. Retraining of older horse
14. Riding in show