

BF&R Docket No. 1622993
Petition Filed: 1/19/2017
License No. [REDACTED]
IN RE: STEVEN A CANTNER
PETITION FOR Review for Sales/Use Tax
PERIOD(S) 1/1/2012 to 12/31/2015

AND NOW, April 27, 2017, pursuant to the Fiscal Code, the Act of 1929, April 9, P.L. 343, as amended, (72 P.S. § 1 et seq), the Board of Finance and Revenue of the Commonwealth of Pennsylvania, based upon the reasons set forth herein, hereby ORDERS the following:

Jurisdiction

This petition comes before the Board of Finance and Revenue pursuant to Section 2704 of the Tax Reform Code of 1971, *as amended*, 72 P.S. § 9704.

Issue

Whether Petitioner has demonstrated that the Department of Revenue incorrectly assessed tax on animal cleaning services.

Statement of the Case

Petitioner, Steven A. Cantner, owns a veterinary hospital which offers medical and non-medical boarding services. Petitioner requests that this Board reduce the Department of Revenue's assessment on the basis that baths provided to non-medical boarders are nontaxable services because they are required for the health of the animals and their owners and are incidental to nontaxable boarding services.

Petitioner was subject to a Pennsylvania sales and use tax audit for the period of January 1, 2012 to December 31, 2015. Pursuant to the audit, the Department assessed tax in the total amount of \$ [REDACTED].

Petitioner filed an appeal of the assessment notice at the Board of Appeals ("BOA"). Petitioner argued that the Department erroneously assessed sales tax on animal bathing that was incidental to boarding. The BOA concluded that Petitioner failed to establish that the Department improperly assessed sales tax since the cleanings were for non-medical purposes.

Petitioner files the instant matter at the Board of Finance and Revenue, contesting the BOA's decision. Petitioner states that he has been a veterinarian for 38 years, and it is his

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medical opinion that extended boarders, animals staying three or more nights, should receive baths before they go home and, as necessary, during their stay. Petitioner contends that extended boarders are exposed to more bio waste, chemicals, and cleaning agents than short term boarders, and can become toxic if the residue is not removed. Petitioner states that it is hospital policy that extended boarders receive a bath.

Petitioner agrees with the auditor that baths provided at the request of the owner and other discretionary grooming services are taxable. However, Petitioner argues that baths for extended boarders are both incidental to nontaxable boarding services and nontaxable medical services. Petitioner has provided a printout from its website which reflects that extended boarders receive baths as part of boarding services and an affidavit from Petitioner explaining the medical reasons for why the hospital requires baths for extended boarders. Petitioner is contesting \$ [REDACTED] of the audit assessment.

Conclusion

Petitioner's request for relief is granted in part. Animal cleaning services performed by a veterinarian or other person for a fee are taxable services. 61 Pa. Code § 55.5. However, "[c]leaning services performed by a veterinarian for the purpose of or incidental to medical treatment are not subject to tax. *Id.* In addition, boarding services are not subject to tax. REV-717 AS (12-13).

Petitioner has demonstrated that the dog baths were incidental to nontaxable boarding services and for a legitimate medical purpose pursuant to Mr. Cantner's affidavit. Petitioner's website indicates that baths are a requirement for any canine that stays for three nights or longer. In addition, Petitioner has agreed that all baths for short term boarders and baths at the request of owners are subject to tax. Petitioner is not entitled to relief on feline boarders or day boarders, as there is no indication that baths are required for animals falling in those categories. Therefore, Petitioner has demonstrated that these services for extended canine boarders are nontaxable services.

Accordingly, the Board enters the following:

ORDER

The Department of Revenue shall reassess Petitioner's tax account for the period January 1, 2012 to December 31, 2015 at a tax due of \$ [REDACTED], plus appropriate penalties and interest.

By Order Of The Board Of Finance And Revenue

**Jacqueline A. Cook, Chair
Designee for Joseph M. Torsella, State Treasurer**

David R. Kraus, Board Member

R. Scott Shearer, Board Member

