

CIRCLE L QUAIL FARMS, INC.
c/o R. BRYAN THOMPSON, CPA
P.O. BOX 311494
ENTERPRISE, AL 36331,

Petitioner,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. S. 11-353

FINAL ORDER

Circle L Quail Farms, Inc. (“Petitioner”) appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-8(a) concerning the Department’s refusal to issue it a sales tax exemption certificate. A hearing was conducted on July 21, 2011. The Taxpayer’s representative was notified of the hearing by certified mail, but failed to appear. Assistant Counsel Keith Maddox represented the Department.

The Petitioner raises quail in Coffee County, Alabama. It sells the quail to hunting plantations, preserves, etc. in Alabama and other states. The Petitioner applied with the Department for a sales tax certificate of exemption for the feed is uses to feed the quail. The Department denied the application because it contends that quail do not meet the definition of “poultry,” as required for the sales and use tax exemptions at Code of Ala. 1975, §§40-23-4(a)(4) and 40-23-62(7) to apply. The Petitioner appealed.

Sections 40-23-4(a)(4) and 40-23-62(7) exempt from sales tax and use tax, respectively, the gross proceeds from the sale or use of “feed for livestock and poultry.” “Poultry” is not defined in the Alabama Revenue Code, Title 40, Code 1975. The term is defined in Title 2, Code 1975, relating to Agriculture, as “[a]ny live or slaughtered domesticated bird.” Code of Ala. 1975, §2-17-1(4). That definition is consistent with

various other common definitions of the term. For example, Dictionary.com defines “poultry” as “domesticated fowl collectively, especially those valued for their meat and eggs, as chickens, turkeys, ducks, geese, and guinea fowl.” The *American Heritage Dictionary*, Third Edition at p. 1071, defines the term as “[d]omestic fowls, such as chickens or turkeys, raised for meat or eggs.” Finally, Wikipedia provides as follows:

Poultry is a category of domesticated birds kept by humans for the purpose of collecting their eggs, or killing them for meat and/or feathers. These most typically are members of the superorder Galloanserae (fowl), especially the order Galliformes (which includes chickens, quails and turkeys) and the family Anatidae (in order Anseriformes), commonly known as “waterfowl” (e.g. domestic ducks and domestic geese). Poultry also includes other birds which are killed for their meat, such as pigeons or doves or birds consider to be game, like pheasants. Poultry comes from the French/Norman word, poule, itself derived from the Latin word Pullus, which means small animal.

The Department contends in its Answer at 2, that “[t]he dictionary defines quail as a game bird and not as poultry.” The Answer does not cite the dictionary in question, and the *American Heritage College Dictionary*, Fourth Edition at p. 1138, defines “quail” as “[a]ny of various small . . . chickenlike birds, . . . such as the bobwhite.” I find no source stating that a quail is a game bird and not poultry. To the contrary, the above quoted definition from Wikipedia states that quail are poultry, as are other birds considered to be game, like pheasants.

The Department argued at the July 21 hearing that unlike chickens, for example, quail are not domesticated birds. It equated domestication with being tame, and claimed that quail raised and then released into the wild for purposes of hunting are never tamed, and thus not domesticated.

I see no substantive distinction between the feeding of chickens or turkeys being raised in cages or pens, and the feeding of quail being raised in cages or pens. If chickens and turkeys are being domesticated in such cases, then quail are likewise also being domesticated. The chickens and turkeys are no more being “tamed” than are the quail.

Chickens and turkeys raised by humans are fed until they reach an appropriate size, at which time they are slaughtered and sold as food. Likewise, the Petitioner raises quail until they reach a certain size, at which time they are sold for their intended use, i.e., as hunting targets and then, presumably, to be eaten as food. The Department conceded at the July 21 hearing that quail may be considered as poultry if they were being raised for the purpose of being sold as food, the same as chickens and turkeys. It is illogical to consider quail as poultry in some cases and not poultry in other cases, depending on their ultimate intended use.

The Department is directed to issue the Petitioner an exemption certificate for the food it feeds to its quail.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered July 25, 2011.

BILL THOMPSON
Chief Administrative Law Judge

bt:dr

cc: Keith Maddox, Esq.
R. Bryan Thompson
Dan Bass
Traci Floyd