

STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2022-14

**STATE OF RHODE ISLAND
DEPARTMENT OF REVENUE
DIVISION OF TAXATION
ONE CAPITOL HILL
PROVIDENCE, RHODE ISLAND 02908**

IN THE MATTER OF:

Taxpayer.

:
:
:
:
:
:

**Case No.: 22-T-020
sales and use tax**

DECISION

I. INTRODUCTION

The above-entitled matter came before the undersigned as the result of a Notice of Pre-hearing Conference and Appointment of Hearing Officer (“Notice”) dated February 25, 2022 and issued to the above-captioned taxpayer (“Taxpayer”) by the Division of Taxation (“Division”) in response to a request for hearing. A hearing was scheduled for May 6, 2022 at which time the Taxpayer did not appear. Since the Taxpayer was adequately noticed of hearing,¹ a hearing was held before the undersigned on May 6, 2022. Pursuant to Section 2.7(G)(3) of the 280-RICR-20-00-2 *Administrative Hearing Procedures* (“Hearing Regulation”), a default judgment may be entered against the party not appearing at hearing. The Division was represented by counsel who rested on the record.

II. JURISDICTION

The Division has jurisdiction over this matter pursuant to R.I. Gen. Laws § 44-18-1 *et seq.*, R.I. Gen. Laws § 44-19-1 *et seq.*, R.I. Gen. Laws § 44-1-1 *et seq.*, and the Hearing

¹ The Notice scheduled a prehearing conference for March 30, 2022 at which time the Taxpayer did not appear. Department’s Exhibit 14 (Notice). A letter was sent on April 4, 2022 to the Taxpayer scheduling the hearing for May 6, 2022. The April 4, 2022 letter was delivered to the Taxpayer. Division’s Exhibit 15 (April 4, 2022 letter with United States tracking sheet showing certified mail was delivered). The address used was the Taxpayer’s last known address. Exhibit Two (2) (Taxpayer’s address on his claim for refund submitted to Division dated February 1, 2021).

Regulation, and 220-RICR-50-10-2, Department of Administration's *Rules of Procedure for Administrative Hearings*.

III. ISSUE

Whether the Taxpayer's request for a refund for the tax paid on his 2020 purchase of car should have been denied by the Division.

IV. MATERIAL FACTS AND TESTIMONY

Revenue Agent II, testified on behalf of the Division. He testified that in 2020, the Taxpayer purchased a car in Massachusetts and paid tax of [redacted] to Massachusetts and paid tax of [redacted] to Rhode Island. He testified that the Taxpayer requested a refund from the Division for the amount of tax paid to Massachusetts as he stated that his car had been the subject of a total loss. He testified that the Taxpayer did not provide any proof of the total loss so was not eligible under the relevant Rhode Island statute to receive a refund of tax paid to Rhode Island. Division's Exhibits One (1) (December 4, 2020 payment receipt to Rhode Island DMV indicating Rhode Island sales tax paid of [redacted]); Two (2) (Taxpayer's request for refund received by Division on February 1, 2021 which indicated car was total loss after five (5) days of ownership); Three (3) (December 21, 2020 purchase contract for said car); Four (4) (Taxpayer's Massachusetts receipt showing payment of Massachusetts' sales tax); Nine (9) (registration certificate of car with Rhode Island); Ten (10) (Division's February 9, 2021 denial letter of Taxpayer's tax refund request).

V. DISCUSSION

A. Legislative Intent

The Rhode Island Supreme Court has consistently held that it effectuates legislative intent by examining a statute in its entirety and giving words their plain and ordinary

meaning. *In re Falstaff Brewing Corp.*, 637 A.2d 1047 (R.I. 1994). If a statute is clear and unambiguous, “the Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings.” *Oliveira v. Lombardi*, 794 A.2d 453 (R.I. 2002) (citation omitted). The Supreme Court has also established that it will not interpret legislative enactments in a manner that renders them nugatory or that would produce an unreasonable result. See *Defenders of Animals v. Dept. of Environmental Management*, 553 A.2d 541 (R.I. 1989) (citing *Cocchini v. City of Providence*, 479 A.2d 108 (R.I. 1984)). In cases where a statute may contain ambiguous language, the Rhode Island Supreme Court has consistently held that the legislative intent must be considered. *Providence Journal Co. v. Rodgers*, 711 A.2d 1131 (R.I. 1998). The statutory provisions must be examined in their entirety and the meaning most consistent with the policies and purposes of the legislature must be effectuated. *Id.*

B. Whether the Refund Should be Granted

Pursuant to R.I. Gen. Laws § 44-18-18, Rhode Island imposes a sales tax of 7% on gross receipts of a retailer. R.I. Gen. Laws § 44-18-20 imposes the corresponding use tax. R.I. Gen. Laws 44-18-21 provides for when taxpayers are to pay use tax on tangible property including on the purchase of motor vehicles. However, if the motor vehicle is a total loss within 120 days of purchase, then a taxpayer is eligible for the refund of any use tax paid.

R.I. Gen. Laws § 44-18-21 provides in part as follows:

Liability for use tax. (a) Every person storing, using, or consuming in this state tangible personal property, including a motor vehicle, boat, airplane, or trailer, purchased from a retailer, and a motor vehicle, boat, airplane, or trailer, purchased from other than a licensed motor vehicle dealer or other than a retailer of boats, airplanes, or trailers respectively[.] ***

(c) In cases involving total loss or destruction of a motor vehicle occurring within one hundred twenty (120) days from the date of purchase and upon which the purchaser has paid the use tax, the amount of the tax constitutes

an overpayment. The amount of the overpayment may be credited against the amount of use tax on any subsequent vehicle which the owner acquires to replace the lost or destroyed vehicle or may be refunded, in whole or in part.

While the Taxpayer indicated in his request for refund that the car was a total loss five (5) days after purchase, the Taxpayer never provided any proof of the total loss despite requests from the Division. Exhibits 13 and 14. Without any proof of the total loss, the Taxpayer was not eligible for a refund of the tax paid to Rhode Island. It is noted that the Taxpayer's refund request was for the amount of tax he paid to Massachusetts. Obviously, the Division could not refund that amount. However, the Taxpayer had also paid tax to Rhode Island on the car, but that amount could not be refunded without proof of eligibility under R.I. Gen. Laws § 44-18-21(c). No such proof was provided to the Division. It was undisputed at hearing that the Division properly denied the refund request.

VI. FINDINGS OF FACT

1. On or about February 25, 2022, the Division issued a Notice of Pre-Hearing Conference and Appointment of Hearing Officer. A letter dated April 4, 2022 scheduled this hearing for May 6, 2022 and was forwarded and received by the Taxpayer.
2. A hearing in this matter was held on May 6, 2022. The Taxpayer received notice of hearing but did not appear at hearing.
3. As the Taxpayer was adequately notified of hearing, the hearing on May 6, 2022 was held.
4. The Taxpayer did not provide proof of his vehicle's total loss.
5. The Taxpayer is in default for not appearing at the hearing.

VII. CONCLUSIONS OF LAW

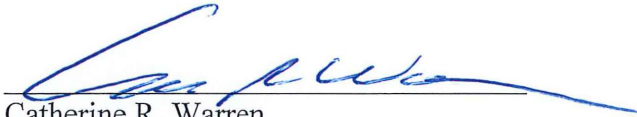
Based on the testimony and facts presented:

1. The Division has jurisdiction over this matter pursuant to R.I. Gen. Laws § 44-18-1 *et seq.*, R.I. Gen. Laws § 44-19-1 *et seq.*, and R.I. Gen. Laws § 44-1-1 *et seq.*
2. There are no statutory grounds to allow the refund request.

VIII. RECOMMENDATION

Based on the above analysis, the Hearing Officer recommends as follows: The Taxpayer is not entitled to the claimed refund and pursuant to R.I. Gen. Laws § 44-18-21(c), the Division properly denied Taxpayer's claim for a refund.

Date: May 24, 2022



Catherine R. Warren
Hearing Officer

ORDER

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby take the following action with regard to the Decision and Recommendation:

ADOPT
 REJECT
 MODIFY

Dated: 5/27/22


Neena S. Savage
Tax Administrator

NOTICE OF APPELLATE RIGHTS

THIS DECISION CONSTITUTES A FINAL ORDER OF THE DIVISION. THIS ORDER MAY BE APPEALED TO THE SIXTH DIVISION DISTRICT COURT PURSUANT TO R.I. Gen. Laws § 44-30-90 WHICH STATES AS FOLLOWS:

R.I. Gen. Laws § 44-19-18 Appeals

Appeals from administrative orders or decisions made pursuant to any provisions of this chapter are to the sixth (6th) division district court pursuant to chapter 8 of title 8. The taxpayer's right to appeal under this chapter is expressly made conditional upon prepayment of all taxes, interest, and penalties, unless the taxpayer moves for and is granted an exemption from the prepayment requirement pursuant to § 8-8-26.

CERTIFICATION

I hereby certify that on the 31ST day of May, 2022 a copy of the above Decision and Notice of Appellate Rights were sent by first class mail, postage prepaid and certified mail to the Taxpayer's address on file with the Division and by electronic delivery to Lenore Montanaro, Esquire, and Matthew Cate, Esquire, Department of Revenue, One Capitol Hill, Providence, RI 02903.

