

STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2024-05

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

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<b>IN THE MATTER OF:</b>	:	
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	:	<b>23-T-063</b>
	:	<b>sales and use tax refund</b>
	:	
<b>Taxpayer.</b>	:	
	:	

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**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 dated August 9, 2023 and issued to the above-captioned taxpayer (“Taxpayer”) by the Division of Taxation (“Division”) in response to a request for hearing filed with the Division. A hearing was held on February 9, 2024. The Division was represented by counsel, and the Taxpayer was *pro se*. The parties rested on the record.

**II. JURISDICTION**

The Division has jurisdiction over this matter pursuant to R.I. Gen. Laws § 44-1-1 *et seq.*, R.I. Gen. Laws § 44-18-1 *et seq.*, and 280-RICR-20-00-2 *Administrative Hearing Procedures*, and 220-RICR-50-10-2.

**III. ISSUE**

Whether the Taxpayer’s claim for a sales and use tax refund for his tax payment on a truck (“Truck”) that he purchased should have been denied by the Division.

#### IV. MATERIAL FACTS AND TESTIMONY

It was undisputed that the Taxpayer purchased the Truck at issue and registered and paid use tax on the Truck on a value of \_\_\_\_\_ on July 15, 2022. Division's Exhibit One (1) (certificate of title for the Truck); Two (2) (use tax return for Truck with \_\_\_\_\_ value dated July 15, 2022); Three (3) (payment receipt for said use tax dated July 15, 2022); and Four (4) (Division of Motor Vehicles ("DMV") registration certificate for Truck dated July 15, 2022).

Senior Tax Auditor ("Auditor"), testified on the Division's behalf. He testified he reviewed the Taxpayer's request for a partial refund of tax that he paid on the Truck. He testified the Taxpayer filed the appropriate refund request form and included an appropriate appraisal for the Truck. He testified the tax was paid on July 15, 2022, and the request was received by the Division on August 19, 2022<sup>1</sup> and by statute, the request must be made within 30 days of the payment of the tax. He testified that the Taxpayer initially sent the request to DMV on August 17, 2022. He testified that 30 days from July 15, 2022 would have been August 14, 2022. He testified the request for refund was denied as out of time. Division's Exhibits Five (5) (emails showing refund request sent to DMV on August 17, 2022 and to the Division on August 19, 2022); Six (6) (claim for refund form dated July 28, 2022 and appraisal dated August 12, 2022); and Seven (7) (Division's denial of claim for refund sent to Taxpayer dated September 19, 2022).

The Taxpayer testified on his behalf. He testified that the form for refund does not state that the request must be received within 30 days. He testified it was difficult to find an appraiser to appraise the Truck, but he was able to find one and he completed the form within 30 days. He testified that he paid tax on a value of \_\_\_\_\_ for the Truck and the appraisal was for \_\_\_\_\_ since the Truck was not worth what he paid tax on. Taxpayer's Exhibit One (1) (photographs of

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<sup>1</sup> While the refund form itself was stamped as received by the Division on August 22, 2022, it was emailed to the Division on August 19, 2022 so was received that day.

the Truck). On cross-examination, he testified that he submitted the claim by email and he first sent it to the DMV on August 17, 2022 and then to the Division on August 19, 2022.

**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) (citation omitted). 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. Relevant Statute**

R.I. Gen. Laws § 44-18-20 provides in part as follows:

Use tax imposed.

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(b) An excise tax is imposed on the storage, use, or other consumption in this state of a motor vehicle, a boat, an airplane, or a trailer purchased from other than a licensed motor vehicle dealer or other than a retailer of boats, airplanes, or trailers respectively, at the rate of six percent (6%) of the sale price of the motor vehicle, boat, airplane, or trailer.

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(e) The term “casual” means a sale made by a person other than a retailer, provided, that in the case of a sale of a motor vehicle, the term means a sale made by a

person other than a licensed motor vehicle dealer or an auctioneer at an auction sale. In no case is the tax imposed under the provisions of subsections (a) and (b) of this section on the storage, use, or other consumption in this state of a used motor vehicle less than the product obtained by multiplying the amount of the retail dollar value at the time of purchase of the motor vehicle by the applicable tax rate; provided, that where the amount of the sale price exceeds the amount of the retail dollar value, the tax is based on the sale price. The tax administrator shall use as his or her guide the retail dollar value as shown in the current issue of any nationally recognized, used-vehicle guide for appraisal purposes in this state. On request within thirty (30) days by the taxpayer after payment of the tax, if the tax administrator determines that the retail dollar value as stated in this subsection is inequitable or unreasonable, he or she shall, after affording the taxpayer reasonable opportunity to be heard, re-determine the tax.

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(h) The use tax imposed under this section for the period commencing July 1, 1990, is at the rate of seven percent (7%).

### **C. Whether the Division Properly Denied the Refund Request**

The Division argued that by statute said request for refund must be made within 30 days so that the Taxpayer filed his request out of time, and the request was appropriately denied.

The Taxpayer argued that he completed all the documentation required to make the request including obtaining the appraisal within 30 days, and his filing was only a few days late, so it was unreasonable to deny him the refund.

Pursuant to R.I. Gen. Laws § 44-18-20(e), the Taxpayer had 30 days from the payment of the tax to request a refund. He paid the tax on the Truck on July 15, 2022 so the refund request was due by August 14, 2022. On August 19, 2022, the Taxpayer filed the proper form for refund of sales or use tax and included an appropriate appraisal. The statute requires the refund request to be filed within 30 days of the payment of tax so the refund request was made more than 30 days from the payment of tax.

The Taxpayer indicated that the refund form did not mention the 30 day deadline; however, the form states that the “appeal procedure” is “[w]ithin thirty (30) days after payment of the tax, you may appeal the retail dollar value of the assessment by completing this form and mailing it to:

Rhode Island Division of Taxation[.]” Division’s Exhibit Six (6). That language tracks the statutory requirement that if a taxpayer makes a request for refund, the request is to be within thirty (30) days after payment of the tax.

The Taxpayer obtained an appraisal for the Truck within 30 days and correctly filled out the form, but there is no statutory provision to allow for an extension of time after the 30 day period. Unfortunately for the Taxpayer, he failed to file his request for refund within the 30 days of his payment of the tax on the Truck.

## **VI. FINDINGS OF FACT**

1. On or about August 9, 2023, the Division issued a Notice of Pre-Hearing Conference and an Appointment of Hearing Officer to the Taxpayer.
2. A hearing was held on February 9, 2024 with the parties resting on the record.
3. The Taxpayer paid the tax on the Truck on July 15, 2022. A request for refund of said tax must be filed within 30 days of the payment of tax.
4. The Taxpayer filed a refund request with the Division on August 19, 2022.
5. The Taxpayer filed the appropriate refund form and included an appropriate appraisal.
6. The facts contained in Sections I, IV, and V are incorporated by reference herein.

## **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.* and R.I. Gen. Laws § 44-1-1 *et seq.*
2. Pursuant to R.I. Gen. Laws § 44-18-20(e), the Taxpayer is not entitled to his refund claimed for the difference in what he paid on tax on the Truck at the DMV and his appraisal as he filed his request for refund out of time.

**VIII. RECOMMENDATION**

Based on the above analysis, the Hearing Officer recommends as follows:

Pursuant to R.I. Gen. Laws § 44-18-20(e), the Taxpayer is not entitled to his partial refund request for payment of tax on the Truck as his request was out of time.

Date: March 5, 2024

  
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: 3/5/2024

  
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 § 44-19-18 WHICH PROVIDES AS FOLLOWS.**

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 5<sup>th</sup> day of March, 2024, a copy of the above Decision and Notice of Appellate Rights were sent by first class mail, postage prepaid and certified mail, return receipt requested to the Taxpayer's address on file with the Division of Taxation and by electronic delivery to John Beretta, Esquire, Department of Revenue, One Capitol Hill, Providence, Rhode Island, 02908.

Paul Belasco