STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2017-07

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

In the Matter of:	:	
	:	**Case No. 16-T-051**
	:	**sales**
Taxpayer.	:	

DECISION

I. INTRODUCTION

This matter came for hearing pursuant to a Notice of Hearing and Appointment of Hearing Officer ("Notice") issued on May 31, 2106 by the Division of Taxation ("Division") to the above-captioned taxpayer's ("Taxpayer") request for hearing on an additional sales tax assessment. A hearing was held on December 7, 2016 and February 17, 2017 with briefs timely filed by April 5, 2017. The parties were represented by counsel.

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.*, the *Division of Legal Services Regulation 1 Rules Procedures for Administrative Hearings.*, and the *Division of Taxation Administrative Hearing Procedures Regulation AHP 97-01.*

III. ISSUE

Whether the Taxpayer owes the additional sales tax assessment? [1]

[1] At the hearing on December 7, 2016, the parties represented that they had agreed to use January, 2012 as a test period using the Taxpayer's register tapes. The issue between the parties is the methodology used by the Division to conduct the post-audit review of the Taxpayer.

IV. MATERIAL FACTS AND TESTIMONY

("Auditor"), Senior Revenue Agent, testified on behalf of the Division. She testified that she has been with the Division for 15 years and has been auditing for 12 years. She testified that the audit period was from July, 2011 to June, 2014 and the Taxpayer designated its accountant as her contact. She testified that she requested information from the Audit Period, but not all the necessary records were provided. She testified that she used the corporate returns to come up with a taxable measure based on the gross receipts and issued a notice of deficiency based on the available records. See Division's Exhibit S (initial Notice of Deficiency issued on August 25, 2015). The Auditor testified that at the pre-hearing conference, it was agreed that the Division would review the January, 2012 register tapes and use that month as a test period.[2]

The Auditor testified that after the pre-hearing agreement, she received the cash register receipts and that Division's Exhibit U represented the breakdown of Taxpayer's January, 2012 purchases by which items were taxable and nontaxable and from which she determined the percentage of purchases that would be taxable to be 88% and nontaxable to be 12%. She testified that she did not have any sales records so she had to use the cash register receipts to come up with a net sales number[3] and then needed to determine how much of the net sales were taxable. She testified that since 88% of purchases were taxable, it was determined that 88% of sales made would be taxable. She testified that the industry average for a convenience store is about 90% of sales are taxable. She testified that the Division has used this audit methodology for convenience stores for at least 20 years. She testified that she used the 88% to come up with a taxable measure and

[2] A pre-hearing conference was scheduled for July 12, 2016 pursuant to the Notice. At this meeting (not recorded), the parties agreed to use said test period and for the Division to perform a post-audit review of the Taxpayer.

[3] She testified that net sales refers to the amount of sales from which nontaxable sales such as Lottery, EBT, and utility payments have been deducted from the gross sales.

applied that to the Audit Period. She testified that using the test period, the initial assessment was reduced from about to about See Division's Exhibits T (calculations of taxable measure); V (applying test period to the Audit Period); and W (revised assessment).

On cross-examination, the Auditor testified that the Division uses purchases to determine how much of a convenience store's sales are taxable. She testified that she reviewed the industry average to ensure the Division's method was in the ballpark. She testified that if all the items are 100% taxable, one can tell from sales. She testified that if nothing was taxable, there would be nothing to tax. She testified that the Division does not look at profits in terms of determining taxability. She testified that the Division will review purchases and what is taxable and nontaxable and apply that to the receipts. She testified that the Division cannot add profit to the methodology because each store is different and different owners have different mark-ups.

On redirect, the Auditor testified that in an audit, register tapes would be reviewed to ensure all taxes were collected and to determine if there were any trust fund issues. She testified that register tapes do not give all of the information needed for an audit. She testified that the Division needed invoices to see what taxes were paid. She testified that mark-up is a matter of profit and the 88% rate is applied to the sales price. She testified that the ratio is based on the cost to the Taxpayer of what was purchased to sell. She testified that if she had a complete set of records and could have reviewed all the invoices (etc.), she would have not had to make an estimate.

On re-cross examination, the Auditor testified that she did not receive any copies of sales invoices. See Division's Exhibit D (copy of initial audit contact letter requesting record).

("Accountant") testified on behalf of the Taxpayer. He was the accountant contact for the Division. He testified that Taxpayer's Exhibit One (1) is a document that he created based on the Auditor's report. He testified that the phrase, "gross up," refers to

how much mark-up is added and that a gross profit mark-up is added to the purchase price to obtain the sales price. He testified that tobacco has a small mark-up because of the State minimum tax price and the market. He testified that based on the Auditor's numbers, he divided the taxable sales between tobacco and non-tobacco. He testified that for the non-tobacco taxable sales, he gave a mark-up of 100% and for tobacco, he gave a 6% mark-up. He testified that including the mark-up, the ratio for taxable sales was 71%. He testified that he applied the 71% ratio using the Division's numbers so that unpaid sales tax came out to be about .[4] He testified that the Division's assessment is much higher than the Taxpayer's calculations because the Division used purchase records to decide the taxable and nontaxable sales and did not include the mark-ups which should be included. The Accountant presented a hypothetical (See Taxpayer's Exhibit Two (2)) to show the difference in applying the purchase ratio and the mark-up ratio to which he testified. The hypothetical was that a business could purchase ten (10) items for $10.00 each of which six (6) are taxable and are marked up by 6%, but the nontaxable items are marked up by 50%. The total sales would be $123.60 and while the Division's method would find 60% to be taxable, based on the proportion of sales including the mark-up, taxable sales would be 48.5%. He testified that an audit cannot always be the same, but should be adjusted for the industry.

On cross-examination, the Accountant testified that he is not a state auditor. He testified that if a sale is not rung up, it would not show up on the register receipts. He testified that he believes that all the records were produced in the original audit. He testified that a mark-up of a 100% for non-tobacco products is very generous to the State and he does not think that any stores would do more than 100% mark-up, but that Taxpayer's owner was not there to testify to the actual mark-up in the store.

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[4] Th is from net sales. A lower sum was apparently calculated by the Taxpayer using the register tapes. See Taxpayer's Exhibit One (1).

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). See *Parkway Towers Associates v. Godfrey*, 688 A.2d 1289 (R.I. 1997). 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, 457 (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) (internal citation omitted). In cases where a statute may contain ambiguous language, the 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 Statutes and Regulation

Pursuant to R.I. Gen. Laws § 44-18-18, Rhode Island imposes a sales tax of 7% on gross receipts of a retailer. Pursuant to R.I. Gen. Laws § 44-18-19, the retailer is responsible for the collection of sales tax. R.I. Gen. Laws § 44-18-25 presumes that all gross receipts are subject to sales tax and that the burden of proving otherwise falls on the taxpayer. Said statute is as follows:

> Presumption that sale is for storage, use, or consumption – Resale certificate. – It is presumed that all gross receipts are subject to the sales tax, and that the use of all tangible personal property, or prewritten computer software delivered electronically or by load and leave, or services as defined in § 44-18-7.3, are subject to the use tax, and that all tangible personal property, or prewritten computer software delivered electronically or by load and leave, or services as defined in § 44-18-7.3, sold or in

processing or intended for delivery or delivered in this state is sold or delivered for storage, use, or other consumption in this state, until the contrary is established to the satisfaction of the tax administrator. The burden of proving the contrary is upon the person who makes the sale and the purchaser, unless the person who makes the sale takes from the purchaser a certificate to the effect that the purchase was for resale. The certificate shall contain any information and be in the form that the tax administrator may require.[5]

R.I. Gen. Laws § 44-19-27[6] requires every person storing or using tangible personal property in this State to keep books, records, receipts, etc. R.I. Gen. Laws § 44-19-27.1[7]

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[5] This is the current version of this statute which was amended in 2011 and 2012 during the audit period for this matter. Neither amendments were relevant to the issue in this matter. The 2011 amendment inserted the provision about pre-written code. The 2011 amendment also inserted a provision regarding scenic tours which was then deleted by the 2012 amendment. The 2012 amendment also added the provision regarding R.I. Gen. Laws § 44-18-7.3. See P.L. 2011, ch. 151, art. 19, § 24; and P.L. 2012, ch. 241, art. 21, § 3.

[6] R.I. Gen. Laws § 44-19-27 states in part as follows:

> Records required – Users – Collectors of taxes – Promoters – Inspection and preservation of records. – (a) Every person storing, using, or consuming in this state tangible personal property purchased, leased, or rented from a retailer, or from a person other than a retailer in any transaction involving a taxable casual sale, shall keep books, records, receipts, invoices, and other pertinent papers in the form the tax administrator may require. Those books, records, receipts, invoices, and other papers shall at all reasonable times be open to the inspection of the tax administrator and his or her agents.
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> (b) Every person required to collect tax shall keep records of every sale or occupancy and of all amounts paid, charged, or due and of the tax payable, in forms the tax administrator may by regulation require. The records shall include a true copy of each sales slip, invoice, receipt, statement, or memorandum upon which § 44-19-8 requires that the tax be stated separately.
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> (d) The records shall be available for inspection and examination at any time upon demand by the tax administrator or his or her authorized agent or employee and preserved for a period of three (3) years, except that the tax administrator may consent to their destruction within that period or may require that they be kept longer.

[7] R.I. Gen. Laws § 44-19-27.1 states as follows:

> Examination of taxpayer's records – Witnesses. – The tax administrator and his or her agents for the purpose of ascertaining the correctness of any return, report, or other statement required to be filed under chapters 18 or 19 of this title or by the tax administrator under those chapters, or for the purpose of determining the amount of any tax imposed under the provisions of those chapters, may examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, report, or other statement, and may require the attendance of the person executing the return, report, or other statement, or of any officer or employee of any taxpayer, or the attendance of any other person, and may examine the person under oath respecting any matter which the tax administrator or his or her agent deems pertinent or material in determining the liability of any person to a tax imposed under the provisions of chapters 18 or 19 of this title.

authorizes the Division to examine taxpayers' records in order to determine the correctness of any tax return filed or the amount of any tax imposed.

The Division's *Sales and Use Tax Regulation* SU 13-91 *Records Requirements* ("SU 13-91") delineates the type of records required to be kept. Rule 5 and Rule 6 of SU 13-91 state in part as follows:

> Rule 5 Records
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> (a) Each retailer as defined in RIGL §44-18-15 shall keep adequate and complete records of the business entity showing:
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> 1. The gross receipts from the sales of tangible personal property and services, including both taxable and nontaxable items and any services necessary to complete a sale.
>
> 2. All deductions allowed by law and claimed in filing returns.
>
> 3. Total purchase price of all tangible personal property or services purchased for resale and the total purchase price of all such property or services purchased for use or consumption in this state.
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> (b) These records, but not limited to, shall include the normal books of account ordinarily maintained by the average prudent business person engaged in the activity in question, together with all bills, receipts, invoices, cash register tapes, all data collected or stored by means of electronic or magnetic media, or other documents of original entry supporting the entries in the books of account as well as all schedules or working papers used in connection with the preparation of tax returns.
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> ***
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> Rule 6 Requirement for Record Retention
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> (b) Failure to maintain such records will be considered evidence of negligence or intent to evade the tax, and will result in the imposition of appropriate penalties as provided by statute.[8]

[8] SU 13-91 was amended during the audit period. Prior to SU 13-91 which became effective on May 1, 2013, the Division had *Sales and Use Tax Regulation* SU 11-91 *Records Requirements* which replaced the Division's *Sales and Use Tax Regulation* SU 89-91 *Records Requirements* on December 1, 2011. Rule 5 of the 2011 amended regulation added the provision regarding scenic tours which was then deleted in the 2013 regulation due to the statutory amendment discussed in footnote five (5). Consistent with the statutory requirements, the three (3) versions of this regulation in effect during the audit period all require the keeping of bills, receipts, invoices, cash register tapes, and documents of original entry supporting the entries in the books of account. All versions include the provision in Rule 6 that the failure to maintain such records will be considered evidence of negligence or intent to evade tax and will result in the imposition of appropriate penalties as provided by statute.

C. Arguments

The Division argued that in the absence of complete records, the parties agreed that the Division would perform a post-audit review of the records using cash register tapes and a test period. The Division argued that it has used its method for decades when complete records are not available. The Division argued that it is very accurate to determine that if 88% of items purchased by a business to be sold are taxable then 88% of the items sold by the business are taxable. The Division argued that the Taxpayer failed to keep records as require by statute. The Division argued that the Taxpayer's alternative methodology was based on hypothetical mark-ups of items and was not based on accounting principles and was not supported by any documentation.

The Taxpayer argued that depending on the mark-up of the items, the ratio of taxable to nontaxable sales will differ. The Taxpayer argued that the Division's methodology is inaccurate. The Taxpayer argued that it produced all its records. The Taxpayer argued that it had produced records that were used for the test period and based on those records, the percentage of taxable sales was 71%.

D. Whether the Taxpayer Owes Sales Tax

The Auditor testified that complete records were not produced by the Taxpayer. While the Taxpayer argued that it produced records, the fact is that the parties agreed that a January, 2012 test period would be used based on register tapes because not all records were available. As a result, the Division performed a supplementary post-audit review and reduced its initial deficiency. The Taxpayer countered with an alternative methodology that would reduce the initial deficiency even further that the Division's post-audit review.

Pursuant to R.I. Gen. Laws § 44-18-25, the burden of proof is on the Taxpayer rather than the Division since the statute provides for a statutory presumption that all items purchased or sold

are subject to tax unless the "contrary" is established by a taxpayer to the satisfaction of the Tax Administrator. The purpose of this hearing was to provide the Taxpayer with an opportunity to rebut the presumption of taxability. The burden of proof for the Taxpayer is the preponderance of the evidence. See R.I. Gen. Laws § 8-8-28 and *DeBlois v. Clark*, 764 A.2d 727 (R.I. 2003).

The Taxpayer argued that the percentage of taxable and nontaxable sales should be calculated not based on purchases by the Taxpayer for sale, but on the mark-up of the purchases for when the items are sold. The Taxpayer presented testimony estimating that the mark-up would be 100% for all items (except tobacco). The Taxpayer presented no documentary evidence or specific evidence of its mark-up of its products for sale.[9] For example, the Taxpayer did not present evidence of sales receipts showing the mark-up of various items purchased to be sold.

The Auditor testified as to how she calculated the sales tax owed by the Taxpayer based on the available records subject to the test period. While the Taxpayer offered an alternative method, it was based on supposition regarding the mark-up of items sold and not based on actual evidence. The Division's methodology is based on the records that were available as to purchases. On the basis of those limited records, the Division determined a ratio of taxable and nontaxable items.

As stated above, by statute, a taxpayer is liable for sales and by statute, a taxpayer must keep certain records. The Division has promulgated regulations[10] that detail the type of records that must be maintained and the tax liability if such records are failed to be maintained. When a taxpayer cannot produce records demonstrating its sales and/or taxes collected, the Division will

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[9] The Taxpayer's estimated mark-up is apparently at variance with the industry standard. In a Division decision, 2011 R.I. Tax Lexis 13 (6/28/11), where purchase records were not available, the auditor in a convenience store audit had to use the general ledger accounts to determine overall sales and then added a mark-up of 30% which was testified as being the industry average and then the auditor deducted 10% to account for nontaxable sales.

[10] R.I. Gen. Laws § 44-19-33 specifically states that the Tax Administrator may prescribe regulations that are not inconsistent with the law and are reasonably designed to carry out the intent and purposes of the law and are *prima facie* evidence of the proper interpretation of statutes.

use the available evidence to make an assessment as provided for in R.I. Gen. Laws § 44-19-11 and R.I. Gen. Laws § 44-19-14.[11] Such audits where there were few or no records have been the subject of prior administrative decisions which have found that assessments are to be made on the available evidence.[12]

In this matter, the Taxpayer did not have the requisite records demonstrating what sales tax had been collected and/or charged. Because of this, the parties agreed to a test period for January, 2012 based on register receipts. A taxpayer must overcome the presumption of taxability to the

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[11] R.I. Gen. Laws § 44-19-11 states as follows:

> Deficiency determinations – Interest. – If the tax administrator is not satisfied with the return or returns or the amount of tax paid to the tax administrator by any person, the administrator may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information in his or her possession or that may come into his or her possession. One or more deficiency determinations may be made of the amount due for one or for more than one month. The amount of the determination, exclusive of penalties, bears interest at the annual rate provided by § 44-1-7 from the fifteenth day (15th) after the close of the month for which the amount, or any portion of it, should have been paid until the date of payment.

R.I. Gen. Laws § 44-19-14 states as follows:

> Determination without return – Interest and penalties. – If any person fails to make a return, the tax administrator shall make an estimate of the amount of the gross receipts of the person or, as the case may be, of the amount of the total sales price of tangible personal property sold or purchased by the person, the storage, use, or other consumption of which in this state is subject to the use tax. The estimate shall be made for the month or months in respect to which the person failed to make a return and is based upon any information, which is in the tax administrator's possession or may come into his or her possession. Upon the basis of this estimate, the tax administrator computes and determines the amount required to be paid to the state, adding to the sum arrived at a penalty equal to ten percent (10%) of that amount. One or more determinations may be made for one or for more than one month. The amount of the determination, exclusive of penalties, bears interest at the annual rate provided by § 44-1-7 from the fifteenth (15th) day after the close of the month for which the amount or any portion of the amount should have been paid until the date of payment. If the failure of any person to file a return is due to fraud or an intent to evade the provisions of this chapter and chapter 18 of this title, a penalty of fifty percent (50%) of the amount required to be paid by the person, exclusive of penalties, is added to the amount in addition to the ten percent (10%) penalty provided in this section. After making his or her determination, the tax administrator shall mail a written notice of the estimate, determination, and penalty.

[12] In a 2003 Division administrative decision (2003 WL 23105231), an audit found *ex tax* purchases by a taxpayer of supplies and expenses. The auditor reviewed that taxpayer's depreciation schedules and purchase invoices. There were no records of any sales or use tax paid on the purchase invoices or of any tax paid and based on that information, the conclusion was that tax was owed. A 1994 Division administrative decision (1994 WL 143289) found that that taxpayer was able to apply some invoices showing when taxes were paid so that the assessment was reduced but when that taxpayer could not show such information, the assessment was not reduced. The decision concluded that "[o]nly scrupulous recordkeeping could verify the claims of nontaxability." (p. 4 of decision).

satisfaction of the Tax Administrator. A presumption of taxability cannot be overcome by inference and testimony without some kind of back up documentary materials for each specific payment.[13] To find otherwise would render the recordkeeping statute and presumption of taxability statute as well as the regulations meaningless.

It is the Taxpayer's statutory and regulatory obligation to maintain all appropriate records. The Division gave the Taxpayer an opportunity to produce additional records. Based on the records produced, pursuant to R.I. Gen. Laws § 44-19-11 and R.I. Gen. Laws § 44-19-14, the Division made an estimate of the tax owed by the Taxpayer. There has been no showing by the Taxpayer that the methodology used by the Division was improper or incorrect.[14] See 2010 WL 3948095 (Division administrative decision). See also *Tax Division Decision* 2000-17 (March 29, 2000) and *Tax Division Decision* 2000-9 (February 15, 2000) (tax assessments rely on taxpayers' records and not oral testimony).

The Division properly imposed interest on the additional sales tax assessment pursuant to R.I. Gen. Laws § 44-19-11. In addition, the Division properly imposed a 10% penalty on the sales tax deficiency pursuant to R.I. Gen. Laws § 44-19-12[15] and R.I. Gen. Laws § 44-19-14.

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[13] A prior Division administrative decision has found that since the law is clear in requiring specific records to be kept, it cannot be the intent to require a hearing officer to accept just the bare testimony of a taxpayer's business dealings. See 1990 WL 204412.

[14] In future, the Taxpayer should retain its statutory and regulatory required records which would obviate the need for the Division to perform such an audit and having to make an estimate of taxes owed.

[15] R.I. Gen. Laws § 44-19-12 provides as follows:

> Pecuniary penalties for deficiencies. If any part of the deficiency for which a deficiency determination is made is due to negligence or intentional disregard of the provisions of this chapter and chapter 18 of this title, a penalty of ten percent (10%) of the amount of the determination is added to it. If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade the provisions of this chapter or chapter 18 of this title, a penalty of fifty percent (50%) of the amount of the determination is added to it.

VI. FINDINGS OF FACT

1. The Notice was issued on May 31, 2016 by the Division to the Taxpayer in response to the Taxpayer's request for hearing on an additional sales tax assessment.

2. The Division conducted an audit of the Taxpayer for the period of July, 2011 to June, 2014. As a result of this audit, a notice of deficiency was issued and a hearing requested.

3. The Taxpayer did not produce all records required to be kept by statute and regulation.

4. At the pre-hearing conference, the parties agreed to use a test period of January, 2012 using the register tapes. Based on those available records, the Division determined that the Taxpayer still owed additional sales tax after its post-audit review, but reduced the amount owed.

5. A hearing in this matter was held on December 7, 2016 and February 17, 2017 with the parties filing briefs by April 5, 2017.

6. The Taxpayer proposed an alternative methodology to the Division's to calculate the taxable sales. However, it was based on hypothetical mark-ups and not based on the records produced in that there was no evidence of the mark-ups for the items sold.

7. The Division's audit was based on the records of purchases made by the Taxpayer in order to determine the percentage of taxable sales.

8. The Division made its tax assessment based on the available information.

9. The facts contained in Sections IV and V are reincorporated by reference herein.

VIII. RECOMMENDATION

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

Based on R.I. Gen. Laws § 44-18-1 *et seq.* and R.I. Gen. Laws § 44-19-1 *et seq.*, the Taxpayer owes the revised tax, interest, and penalty as set forth in Division's Exhibits T and W.

Date: April 24, 2017

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: 5/8/17

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 THE FOLLOWING 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 8th day of May 2017 a copy of the above Decision and Notice of Appellate Rights were sent by first class mail, postage prepaid and return receipt requested to the Taxpayer's attorney's address on file with the Division of Taxation and by hand delivery to Ann Marie Maccarone, Esquire, Department of Revenue, One Capitol Hill, Providence, RI 02908.

Gail Belasco