STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2011-13

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

IN THE MATTER OF:	:	Personal Income Tax
	:	Case No.: 10-T-018
Taxpayer.	:	

DECISION

I. INTRODUCTION

The above-entitled matter came before the undersigned as the result of a Notice of Hearing and Appointment of Hearing Officer dated September 29, 2010 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 May 5, 2011. The Taxpayer was represented by a certified public accountant and the Division was represented by counsel. The parties rested on the record but additional exhibits and argument were filed electronically shortly thereafter by permission of the undersigned.

II. JURISDICTION

The Division has jurisdiction over this matter pursuant to R.I. Gen. Laws § 44-30-1 *et seq.*, the *Division of Legal Services Regulation 1 – Rules of Procedure for Administrative Hearings*, and the *Division of Taxation Administrative Hearing Procedures Regulation AHP 97-01.*

III. ISSUE

Whether the Taxpayer was a domiciliary of Rhode Island in 2005 and 2006 and thus subject to Rhode Island personal income tax pursuant to R.I. Gen. Laws § 44-30-5.

IV. MATERIAL FACTS AND TESTIMONY

Principal Revenue Agent, testified on behalf of the Division. She testified that this matter arose from the Division's computer system identifying that the Taxpayer filed a Federal tax return with a Rhode Island address but without a corresponding Rhode Island income tax return. She testified that she pulled the Taxpayer's tax history which indicated that except for 2004, she had paid no taxes for the last ten (10) years.[1] See Division's Exhibit Two (2). testified she pulled the Taxpayer's driving and voting records which showed the Taxpayer has a Rhode Island driver's license and is registered to vote in Rhode Island. See Division's Exhibits Three (3) and Four (4). She testified that the Division issued Notices of Deficiency to the Taxpayer for the tax years 2005 and 2006. See Division's Exhibits Five (5) and Nine (9). She testified that the Taxpayer prepaid both deficiencies and requested a consolidated hearing. She testified that the Division felt there were factual differences between this matter and the recent *Division Decision* 2010-10 (10/21/10) ("2010 Decision") that addressed American expatriates living abroad so preferred the matter be adjudicated.

On cross-examination, testified that the Taxpayer does not have a car registered in Rhode Island. She testified that the Taxpayer's Federal education credit claim in 2005 does not prove that someone is a Rhode Island resident.[2] She testified that the Taxpayer was in New York at the time attending school.

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[1] The Taxpayer's representative indicated that the 2004 filing was an error and that the Taxpayer should not have paid Rhode Island tax in 2004. The Taxpayer also represented that indicating she was a resident in Taxpayer's Exhibit Six (6) (2006 Federal return) was an error.

[2] There was testimony and dispute at hearing regarding unearned income received by the Taxpayer during 2005 and 2006. After hearing, the Taxpayer provided further documentation (see Taxpayer's Exhibit Six (6)) so that the Division represented that the unearned income was derived from sources outside Rhode Island and would not be using it as a basis to try to establish a Rhode Island domiciliary for the Taxpayer.

The Taxpayer submitted her resume and a time line of her career after graduation from college in 1995 to which the Division did not object. See Taxpayer's Exhibits One (1) and Two (2).[3] The Taxpayer studied at Columbia University in New York from August 31, 2004 through July 31, 2006 but spent vacations outside of the United States. There was no dispute that the Taxpayer spent the following periods in these locations: 1) January 15, 2005 through May 25, 2005 in New York; 2) June 1, 2005 through August 30, 2005 in Japan; 3) September 1, 2005 to December 20, 2005 in New York; 4) December 21, 2005 to January 15, 2006 in Philippines; 5) January 16, 2006 to July 31, 2006 in New York; and 6) July 31, 2006 to present in Japan.

The Taxpayer's mother testified on the Taxpayer's behalf. She testified that her daughter graduated from college in 1995, applied for jobs overseas, moved to Asia, and now lives and works in Japan. She testified that she has a joint Rhode Island banking account with her daughter in that her daughter's name is on the account but she (mother) is an authorized signatory. See Division's Exhibit 11 (Taxpayer's check). She also testified that in 2005 and 2006, she (mother) visited her daughter rather than her daughter visiting Rhode Island but she (daughter) may have spent Christmas, 2005 in Rhode Island. She testified that she usually visits her daughter abroad rather than her daughter coming to Rhode Island so that in the last 15 years, her daughter has usually come to Rhode Island once a year at Christmastime. She testified that her daughter uses her (mother's) address for convenience

[3] The Taxpayer also submitted a synopsis of her career that was not notarized. See Taxpayer's Exhibit Three (3). She did not appear at the hearing to testify so was not subject to cross-examine. Thus, the weight given to this document is minimal and the undersigned has relied on other testimony and exhibits to reach a conclusion.

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 held 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).

B. Relevant Statute

R.I. Gen. Laws § 44-30-5 states:

> "Resident" and "nonresident" defined. – *(a) Resident individual.* A resident individual means an individual:
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> (1) Who is domiciled in this state. In determining the domicile of an individual, the geographic location of professional advisors selected by an individual, including without limitation advisors who render medical, financial, legal, insurance, fiduciary or investment services, as well as charitable contributions to Rhode Island organizations, shall not be taken into consideration.
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> (2) Who is not domiciled in this state but maintains a permanent place of abode in this state and is in this state for an aggregate of more than one hundred eighty-three (183) days of the taxable year, unless the individual is in the armed forces of the United States.
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> *(b) Nonresident individual.* A nonresident individual means an individual who is not a resident.

C. The Arguments[4]

The Division argued that 2010 Decision is being expanded since that expatriate taxpayer only had minimal contacts with Rhode Island for convenience so was not a Rhode Island resident. The Division argues that this Taxpayer's substantial and repeated physical presence in the U.S. in 2005 and 2006 are greater than those in the 2010 Decision so that while the Taxpayer may not have had a physical presence in Rhode Island, she had a physical presence in the United States 14 out of 21 months and did not avail herself of a New York driver's license.[5] The Division argued that the 2010 Decision taxpayer had no US income but this Taxpayer did from her Columbia fellowship. The Division argued that the Taxpayer paid Rhode Island 2004 tax which along with the bank account, the driver's license, voting, and the physical presence in the United States adds up to a domicile in Rhode Island.[6] The Division argued that the 2010 Decision required that there be no other contacts with the U.S.

The Taxpayer argued that she has lived abroad 16 years and just because she has a driver's license and voting registration in Rhode Island doesn't prove that she is domiciled in Rhode Island. The Taxpayer argued that the issue is intent and she does not plan to return to Rhode Island but rather returned temporarily to the United States for studies but not to Rhode Island. She agreed the Columbia fellowship was earned taxable income.

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[4] R.I. Gen. Laws § 44-30-5(a)(2) does not apply to the Taxpayer as she spent less than 183 days a year in Rhode Island.

[5] The parties agreed that the Taxpayer does not have an international driver's license. There was no testimony from the Taxpayer about whether she owned property in Japan but her mother testified that her daughter rents in Japan. However, there was no dispute that the Taxpayer does not own any property in Rhode Island.

[6] The Division represented that the years after 2006 fall under the 2010 Decision so that the Taxpayer is not a Rhode Island resident after 2006. See email of May 10, 2011.

D. Whether the Taxpayer was a Domiciliary of Rhode Island

The seminal Rhode Island case on domiciliary for tax purposes is *DeBlois v. Clark*, 764 A.2d 727 (2001) which found as follows:

> Applying these principles [*McCarthy v. McCarthy,* 45 R.I. 367 (1923) and *Black's Law Dictionary*] to this case, it is our opinion that an individual may retain contacts to Rhode Island, where he or she may spend significant time, but become domiciled in another state, provided the prerequisites of domicile are met. Moreover, a person may have more than one residence, Restatement (Second) *Conflict of Laws* § 20 cmt. *b* (2) (1971), and may even maintain a residence in the former domicile. *See* Restatement (Second) *Conflict of Laws* § 18 cmt. *e* (1971) ("It is * * * possible for a person to retain his old dwelling place and to cease to regard it as his home. In that case, if he regards the new dwelling place as his home, his domicil changes to the new dwelling place") . . . In order to effectuate a change of domicile, physical presence must concur with the intention of making the new location a permanent abode. (citation omitted). One need not abandon a former domicile-to the extent that means never or rarely returning-nor must one gradually sever or break ties to the state of origin. (footnote omitted).
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> The determination of domicile must be made on a case by case basis upon consideration of all the evidence. *McCarthy,* 45 R.I. at 370 . . . (citation omitted). A person's intent with respect to domicile may be evidenced by his or her testimony and may-and often as a practical matter, must-also be evidenced by objective manifestations of that intent. *McCarthy,* 45 R.I. at 370 . . . Here, evidence that petitioners intended to change their domicile to Florida was substantial. The petitioners' condominium furnishings in Florida were valuated by an insurance company "in excess of $150,000," compared to "about $50,000" valuation of furnishings in Rhode Island. The Florida condominium also contains silverware, "the valuables [and] some paintings." It is more expensive than their condominium in Warren. They filed for and were granted a homestead exemption in Florida, the application for which asked for the "[d]ate you last became a permanent resident of Florida," to which petitioners responded "10/90."(footnote omitted). The petitioners changed their drivers' licenses and car registrations to Florida and changed their wills to recite that they were "of Vero Beach, Florida." Mr. DeBlois made repeated references to Florida as his "permanent," "official," and "legal" home in resignation correspondence to various Rhode Island civic and business groups to which he had belonged. (footnote omitted). The petitioners filed Florida "intangible tax returns" and paid the taxes thereon. They registered to vote in Florida and since 1991 have only voted there. *See Blount v. Boston,* 351 Md. 360, 718 A.2d 1111, 1115 (1998) ("Our cases have characterized the place of voting as 'the highest evidence of domicile.'").
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> ***

> For federal income tax purposes, the petitioners treated the 1993 sale of the Vero Beach condominium as a sale of a principal residence ("[T]he decision was that Florida was my home, and we treated the sale of the condominium that way."). Furthermore, all but one of their checking accounts are in Florida.[FN11] In addition to these objective manifestations of intent, when asked, "So, it's fair to say as of August 1, 1990, you had intended to change domiciles at that point?," Mr. Deblois responded "yes." [footnote omitted].
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> FN11. *See* Restatement (Second) *Conflict of Laws* § 20 at 82 "Special Note on Evidence for Establishment of a Domicil of Choice" (" *Acts.* * * * [T]he location of a person's bank is some evidence as to the place of his domicil since, for the sake of convenience, he would presumably wish to deal with a bank close to his home.").
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> Moreover, it is our opinion that a change in domicile does not require abandonment of one's former state. Domicile is manifested by physical presence plus intent. Here, petitioners' actions demonstrated their intent to establish domicile in Florida. *DeBlois*, at 734-737.

DeBlois arose out of an appeal of a 1996 Tax Administrator's decision that evaluated the DeBloises' continuing contacts with Rhode Island and found the DeBloises to be Rhode Island domiciliaries. The District Court upheld said decision finding that the DeBloises had not taken enough steps to break with Rhode Island. However, the Supreme Court overturned the District Court holding that "[d]omicile is manifested by physical presence plus intent." *Id.*, at 737. The Court also found that an individual may retain contacts to Rhode Island and spend considerable time there but become domiciled in another state provided the prerequisites of domicile have been met. *Id.*, at 734. Finally, the Court found that,

> The determination of domicile must be made on a case by case basis upon consideration of all the evidence. (citations omitted). A person's intent with respect to domicile may be evidenced by his or her testimony and may-and often as a practical matter, must-also be evidenced by objective manifestations of that intent. *Id.*, at 735.

Thus, the Court relied on 1) Mr. DeBlois' testimony that he and his wife planned to change their domiciliary; and 2) the "objective manifestations of intent" to find that the DeBloises had changed their domiciliary. Part of the objective manifestations of the DeBlois' intent was their voting and driving records. However, the Court did not find that such indicia are controlling but rather the Court explicitly stated that the decision must be made on a case-by-case basis.

a. Objective Manifestations of Intent

i. Voting

The Taxpayer is registered to vote in Rhode Island using her mother's address. While overseas, she has voted in statewide presidential election for 2000 and 2008. See Division's Exhibit Three (3).

The Division relies on the finding in the 2010 Decision that the issue of voting is not as relevant in determining domiciliary for an American citizen living overseas as it would be for a Rhode Island domiciliary moving to another State in which he or she can vote. Unlike in *DeBlois*, an expatriate taxpayer cannot change voting registration to another state when living overseas. See 2010 Decision. Thus, the Division argues that since the Taxpayer was living in New York during 2005 and 2006, the Taxpayer could have changed voting registration to New York and the failure to do so helps establish her Rhode Island domiciliary.

The Taxpayer was studying in New York and was not planning on moving permanently to New York. She did not work in New York or Rhode Island during her vacation time. She was in New York for the 2004 presidential election[7] but voted in Rhode Island. Presumably, since the Taxpayer was not planning on staying in New

[7] The Taxpayer's Columbia studies began in August, 2004.

York, she did not switch her voting registration away from her mother's address since it would be more convenient to use her mother's address when returning abroad rather than any New York City accommodations used during her studies.

ii. Driver's License

The Division again argues that the Taxpayer could have switched her Rhode Island driver's license to New York from Rhode Island in 2005 or 2006 and the failure to do so helps establish her Rhode Island domicile.[8] In the 2010 Decision, that taxpayer kept his Rhode Island license for convenience for U.S. car rentals and for the convenience of using it abroad but the DeBloises obtained Florida licenses upon moving to Florida.

iii. Banks

DeBlois found that the DeBloises banked in Florida. In this matter, the Taxpayer has a joint Rhode Island account with her mother that her mother testified was for convenience for paying U.S. bills. There was no evidence submitted of where the Taxpayer has bank accounts other than her shared account with her mother.[9]

iv. Property

There was no evidence that the Taxpayer owned or rented a house, an apartment, a car, a boat, or any property in Rhode Island during 2005 or 2006.

iv. Declarations

In *DeBlois*, the Court found that the DeBloises for Federal income tax purposes had treated the sale of their Florida condominium as the sale of their principal residence.

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[8] While there was no direct evidence at hearing on where the Taxpayer lived while studying at Columbia University, the Division's Exhibit Eight (8) indicates that the Taxpayer's New York address was the upper west side of Manhattan near Columbia University.

[9] One assumes that the Taxpayer would have a bank account in Japan in order to be paid by her job in Japan but there was no evidence either way.

The Court also found that Mr. DeBlois made repeated references to being a permanent residence of Florida in his resignation letters to Rhode Island civic and business groups to which he belonged. Similarly, in the 2010 Decision, when that taxpayer applied for an absentee ballot in 2004 and did not state that he was a US citizen temporarily residing outside the US but rather stated he was a US citizen residing outside the US and his address on his tax returns were in care of his tax preparer's Rhode Island address. The Division argued that the Taxpayer's tax paid in 2004 and declaration of residency in 2006 indicate that the Taxpayer is a 2005 and 2006 Rhode Island domiciliary.

vi. Physical Presence

The Division argues that this is not a residency case but a domicile case and unlike in the 2010 Decision when that taxpayer visited the United States (including Rhode Island) for less than 50 days, this Taxpayer had sustained and repeated contacts with the United States that can not be categorized as vacation to visit family.

DeBlois found that a taxpayer may retain contacts and spend significant time in Rhode Island and still not be a domiciliary. Apparently, the only physical contact this Taxpayer had with Rhode Island was perhaps a 2005 Christmastime visit; otherwise, she was in New York during this time period.

vii. Testimony

The Taxpayer did not testify. However, there was no dispute that she has lived and worked abroad for over 15 years only returning for a period of time for graduate studies at Columbia University. Such evidence supports the representations by the Taxpayer's representative's that she does not plan to return to Rhode Island.

viii. Prior Administrative Tax Decisions

Tax Administrative Decision, 2004 WL 3078823, applied *DeBlois* to find that a taxpayer was not domiciled in Florida. In that matter, the taxpayer had declared an intent to be a Florida domicile but both husband and wife were still registered to vote in Rhode Island, each had a Rhode Island driver's license, they had two (2) cars registered in Rhode Island, they owned a house in Rhode Island and Florida, the wife still resided in Rhode Island, and they had a bank account in Rhode Island. The husband also owned a house in California and decided to change his domicile from California to Florida by renting a hotel room in Florida and then later buying a house in Florida. The husband obtained a Florida's driver's license the year after he argued he was domiciled in Florida.

In contrast to that 2004 decision, a 2003 *Tax Administrative Decision*, 2003 WL 21700339, when applying *DeBlois* found that a taxpayer was not a domiciliary of Rhode Island. In that situation, the taxpayer lived overseas and had previously been a student in Rhode Island and kept his Rhode Island address because his family was there. In addition, the taxpayer was not registered to vote anywhere in the US, did not have a house in Rhode Island, had both a Rhode Island driver's license and a foreign driver's license, had a Rhode Island business address on his tax return, visited Rhode Island for two (2) weeks a year, had Rhode Island bank accounts used by family representatives to pay expenses, and had no vehicles in Rhode Island. The decision found that the taxpayer's permanent place of abode was in a foreign country and the residence address in Rhode Island was purely a business address used by the taxpayer's family's business and he did not live there and had no present intention to return to the US, let alone Rhode Island, so that to assess a tax on the basis of only a few criteria would be far reaching.

ix. Conclusion

The Division argued that the 2010 Decision should be distinguished from this matter on two (2) grounds. First, the Division argues that the 2010 Decision's taxpayer had very limited contacts with Rhode Island and had no other contacts with other states. Second, the Division argued that having created an exemption from a general rule of taxation by administrative ruling in the 2010 Decision, it is incumbent on the undersigned to narrowly construe and apply the exemption and not to expand it by sophistry. The Division argued that the current ruling is that merely having a driver's license and voting registration is not evidence of an overseas' taxpayer Rhode Island domicile for tax purposes as long as there are no other contacts with the United States and this Taxpayer is ignoring this rule by arguing that a Rhode Island driver's license and voting registration means nothing as long as a taxpayer's United States' contacts were with another state.

The 2010 Decision did not create an exemption to a general tax rule. Rather the 2010 Decision applied the *DeBlois* ruling on how to determine a Rhode Island domicile. *DeBlois* found that it is a case-by-case determination and voting and driving are not controlling but merely indicia to be considered along with other objective manifestations of intent. In the 2010 Decision, that taxpayer did visit other states besides Rhode Island but not for business and not for as long time as this Taxpayer spent in New York. See 2010 Decision, at 3, 13. However, unlike that taxpayer, this Taxpayer was in New York long enough to change voting or driving records if desired.

The Division accepts that for 2007 onwards, the Taxpayer's Rhode Island voting and driver's license do not establish Rhode Island domiciliary. Thus, the Division is attempting to use the Taxpayer's Columbia studies and earned income from Columbia to

establish a Rhode Island domicile.[10] However, the Taxpayer's physical contacts are with the United States and not with Rhode Island. The Division argued that the Taxpayer's sustained physical presence in the United States establishes a Rhode Island domicile. *DeBlois* reviewed Rhode Island contacts and contrasted those taxpayers' contacts with Rhode Island with their contacts with other states. Living in another state cannot make one a Rhode Island domicile. The Division would have a stronger argument if the Taxpayer had attended graduate school in Rhode Island (and indeed, if she had the Taxpayer might have met the 183 statutory days).

In closing, the Division is concerned that an expatriate taxpayer could spread his or her state contacts around and not pay state income tax. If the Taxpayer had taken a job in New York so that she was effectively permanently in New York and the United States, her continued contacts with Rhode Island would count for more. However, the Taxpayer was only in New York temporarily and that finding is based on the fact she was studying for a terminal degree (a M.A.) and is not based on a declaration that was made by the Taxpayer only after receiving the notice of a tax liability. In other words, the degree is an objective manifestation of the intent that she only intended to temporarily study in another state.

DeBlois relied on a physical presence, a stated intent, and objective manifestations to support that intent. As demonstrated by the 2004 decision, objective manifestations do not always support a declared intention to change a domiciliary. In that case, despite the husband stating that he was a Florida domiciliary, all the other evidence pointed to continuing to be a Rhode Island domiciliary. In contrast, the 2003

[10] The Division had believed the Taxpayer received Rhode Island source income but as stated previously, it withdrew that argument after hearing.

decision taxpayer lived overseas and had very few contacts with Rhode Island including family and a long ago obtained driver's license.

This decision reviewed the various types of "objective manifestations" discussed in *DeBlois*. This is not an exhaustive list. Indeed, *DeBlois* indicates that this type of decision is a case-by-case decision. In this matter, besides the driver's license and voting registration, the Taxpayer did not own a car that was registered or located in Rhode Island in 2005 or 2006, did not own or rent property in Rhode Island in 2005 or 2006, maybe visited Rhode Island in 2005 at Christmastime, had a joint Rhode Island bank account with her mother, and studied in New York in 2005 and 2006 and earned New York income. The New York contact cannot make the Taxpayer a Rhode Island domicile when her contacts with Rhode Island are minimal and for the convenience of living and working overseas and she had not permanently returned to the United States.

DeBlois found that under R.I. Gen. Laws § 8-8-28, a taxpayer must demonstrate a change in domicile by the preponderance of evidence. The Taxpayer has demonstrated by a preponderance of evidence that she was not a domiciliary of Rhode Island for 2005 and 2006 so does not owe personal income tax to the State of Rhode Island.

VI. FINDINGS OF FACT

1. On or about September 29, 2010, the Division issued a Notice of Hearing and Appointment of Hearing Officer.

2. A hearing in this matter was held on May 5, 2011.

3. The parties rested on the record with some additional exhibits and argument filed electronically thereafter.

4. The facts contained in Sections IV and V are reincorporated 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 § 44-30-1 *et seq.* and R.I. Gen. Laws § 44-1-1 *et seq.*

2. Pursuant to R.I. Gen. Laws § 44-30-5, the Taxpayer was not a domiciliary of Rhode Island for 2005 and 2006.

3. Therefore, the Taxpayer does not owe personal income tax to the State of Rhode Island for 2005 and 2006 as issued in the Notices of Deficiency for 2005 and 2006. See Joint Exhibits Five (5) and Nine (9) respectively.

VIII. RECOMMENDATION

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

Pursuant to R.I. Gen. Laws § 44-30-5, the Taxpayer was not a domiciliary of Rhode Island for 2005 and 2006 and does not owe personal income tax for 2005 and 2006 to the State of Rhode Island. Therefore, said Notices shall be withdrawn.

Date: 6/21/11

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:

___X___ ADOPT
_____ REJECT
_____ MODIFY

Date: June 20, 2011

David Sullivan
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:

§ 44-30-90 Review of tax administrator's decision.

(a) General. Any taxpayer aggrieved by the decision of the tax administrator or his or her designated hearing officer as to his or her Rhode Island personal income tax may within thirty (30) days after notice of the decision is sent to the taxpayer by certified or registered mail, directed to his or her last known address, petition the sixth division of the district court pursuant to chapter 8 of title 8 setting forth the reasons why the decision is alleged to be erroneous and praying relief therefrom. Upon the filing of any complaint, the clerk of the court shall issue a citation, substantially in the form provided in § 44-5-26 to summon the tax administrator to answer the complaint, and the court shall proceed to hear the complaint and to determine the correct amount of the liability as in any other action for money, but the burden of proof shall be as specified in § 8-8-28.

(b) Judicial review sole remedy of taxpayer. The review of a decision of the tax administrator provided by this section shall be the exclusive remedy available to any taxpayer for the judicial determination of the liability of the taxpayer for Rhode Island personal income tax.

(c) Date of finality of tax administrator's decision. A decision of the tax administrator shall become final upon the expiration of the time allowed for petitioning the district court if no timely petition is filed, or upon the final expiration of the time for further judicial review of the case.

CERTIFICATION

I hereby certify that on the 20th day of July, 2011, a copy of the above Decision and Notice of Appellate Rights were sent by first class mail, postage prepaid and return receipt requested to Taxpayer's authorized representative's address on file with the Division of Taxation and by hand delivery to Bernard J. Lemos, Esquire, Department of Revenue, One Capitol Hill, Providence, Rhode Island, 02908.