STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2022-05

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

IN THE MATTER OF:	:	**Personal Income Tax**
-	:	**Case No.: 21-T-202**
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 November 14, 2021 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 18, 2022.[1] 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 § 44-30-1 *et seq.*, R.I. Gen. Laws § 44-1-1 *et seq.*, and 280-RICR-20-00-2 *Administrative Hearing Procedures*.

III. ISSUE

Whether the Taxpayer's claimed refund claim for the calendar year 2017 should have been denied by the Division.

[1] Due to the Covid19 pandemic, the hearing was held be telephone.

IV. MATERIAL FACTS AND TESTIMONY

, Principal Tax Auditor, testified on behalf of the Division. He testified that the Division received the Taxpayer's nonresident 2017 income tax return on June 7, 2021. Division's Exhibit One (1). He testified that the Taxpayer's 2017 return was due on April 17, 2018. He testified the Taxpayer's 2017 return was statutorily out of time for the Taxpayer to receive a refund of her overpayment of tax. He testified that the Taxpayer was notified of the denial of her tax refund request. Division's Exhibit Three (3) (notice of denial of refund request dated July 14, 2021). He testified that there is a two (2) year and a three (3) year period under R.I. Gen. Laws § 44-30-87 that provides for time to request a refund, and the Taxpayer did not fall under either time period.

The Taxpayer testified on her behalf. She testified that she was a foreign exchange student and worked for three (3) colleges in 2017 including a college in Rhode Island. She testified that she had a dispute with one of the other colleges regarding her tax status which affected her federal return. She testified that she could not file her Rhode Island tax return until she knew her federal taxable income. She testified that she filed a federal tax return in 2018 but it took two (2) years for her to hear back from the IRS. Taxpayer's Exhibit Two (2) (IRS letter dated 6/7/19 to Taxpayer regarding tax return requesting further information).

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 § 44-30-87(a) states as follows:

> Limitations on credit or refund. – *(a) General.* Claim for credit or refund of an overpayment of tax shall be filed by the taxpayer within three (3) years from the time the return was filed or two (2) years from the time the tax was paid, whichever of these periods expires the later, or if no return was filed by the taxpayer, within two (2) years from the time the tax was paid. If the claim is filed within the three (3) year period, the amount of the credit or refund shall not exceed the portion of the tax paid within the three (3) year period. If the claim is not filed within the three (3) year period, but is filed within the two (2) year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the two (2) years immediately preceding the filing of the claim. Except as otherwise provided in this section, if no claim is filed, the amount of a credit or refund shall not exceed the amount which would be allowable if a claim has been filed on the date the credit or refund is allowed.

C. When Refunds are Allowed

i. The Time Periods to Request a Refund

R.I. Gen. Laws § 44-30-87 provides different time periods within which a refund is allowed. A refund may be claimed within three (3) years of filing a return. If a claim is made within the three (3) year period, the amount of credit cannot exceed the amount of tax paid within that three (3) year period. A claim may be filed within two (2) years from the time the tax was

paid. If a claim is made within the two (2) year period, the amount of refund may not exceed the portion of tax paid during the two (2) years preceding the filing of the claim.

Pursuant to R.I. Gen. Laws § 44-30-87(i),[2] the Taxpayer's tax for 2017 was deemed paid on its due date: April 17, 2018.[3] R.I. Gen. Laws § 44-30-51[4] states that Rhode Island personal income tax returns are to be filed by April 15 after the close of the taxable year. R.I. Gen. Laws § 44-30-52[5] states that tax shall be paid on or before the date fixed for filing without regard to an extension. R.I. Gen. Laws § 44-30-87(e)[6] specifically precludes any other period of limitations specified in any other laws from being applied to recovery of personal income tax refunds.

ii. Applying Rhode Island Law to the Taxpayer's Refund Claim

Thus, applying the State statute results in the following timeline:

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[2] R.I. Gen. Laws § 44-30-87(i) states as follows:

> (i) Prepaid income tax. For purposes of this section, any income tax withheld from the taxpayer during any calendar year and any amount paid as estimated income tax for a taxable year is deemed to have been paid by the taxpayer on the fifteenth day of the fourth month following the close of his or her taxable year with respect to which the amount constitutes credit or payment.

[3] Division testimony.

[4] R.I. Gen. Laws § 44-30-51 states in parts as follows:

> Returns and liabilities. – (a) General. On or before the fifteenth day of the fourth month following the close of a taxable year, a Rhode Island personal income tax return shall be made and filed by or for:
>
> (1) Every resident individual required to file a federal income tax return for the taxable year, or having Rhode Island income for the taxable year, determined under § 44-30-12, in excess of the sum of his federal personal exemptions.

[5] R.I. Gen. Laws § 44-30-52 states in part as follows:

> Time and place for filing returns and paying tax. – A person required to make and file a Rhode Island personal income tax return shall, without assessment, notice, or demand, pay any tax due thereon to the tax administrator on or before the date fixed for filing the return, determined without regard to any extension of time for filing the return. The tax administrator shall prescribe the place for filing any return, declaration, statement, or other document and for payment of the tax.

[6] R.I. Gen. Laws § 44-30-87(e), states as follows:

> (e) Failure to file claim within prescribed period. No credit or refund shall be allowed or made, except as provided in subsection (f) of this section, after the expiration of the applicable period of limitation unless a claim for credit or refund is filed by the taxpayer within that period or unless the tax administrator determines under subsection (f) of this section that the taxpayer has made an overpayment. Any later credit shall be void and any later refund erroneous. No period of limitations specified in any other law shall apply to the recovery by a taxpayer of moneys paid in respect of Rhode Island personal income tax.

1. The Taxpayer's 2017 tax was deemed paid on April 17, 2018. The Taxpayer was able to request a refund two (2) years from that date. Any claim for a refund filed in the two (2) year period would be limited to amounts paid in the preceding two (2) years.

2. The Taxpayer filed her 2017 Rhode Island return on June 7, 2021.

3. June 7, 2021 is past the two (2) year period from the date the taxes were deemed paid that is allowed for requesting a refund.

4. The statute also allows a claim for a refund to be filed within three (3) years from the date of the return being filed.

5. Thus, the Taxpayer may file a request for a refund within three (3) years of filing of the return.

6. The Taxpayer is within the three (3) year period to claim a refund.

7. The statute specifically limits the amount of a refund for those filed in the three (3) year period to the portion of tax paid "within the three (3) year period" as opposed to those requests filed within the two (2) year period which are limited to tax paid "during the two (2) years immediately preceding the filing of the claim."

8. The Taxpayer has not paid any tax from June 7, 2021 to the present.

Pursuant to the tenets of statutory construction, a statute must be examined in its entirety and words be given their plain and ordinary meaning. *Infra*. The State statute states that the beginning of the three (3) year period is when the return was filed and that the time period is *within* three (3) years from when the return was filed. This unambiguous prospective application is further clarified by the fact that the statute clearly delineates that the two (2) year claim period refers to the period immediately preceding the filing date. Indeed, when reviewing the statute in its entirety and applying the plain meaning of the language, it is clear that the legislature intended

to strictly limit the time to claim a refund and amounts of refunds. The legislature could have chosen to make the three (3) year period like the two (2) year period but chose not to. Indeed, it chose instead to strictly limit the time allowed and the amount of refunds claimed.

In addition, an agency's acquiescence to a continued practice is entitled to great weight in determining legislative intent. R.I. Gen. Laws § 44-30-87 was enacted in 1971 and has not been amended. See *Division's Final Decision* (10/25/85) (refund request denied as untimely pursuant to said statute). While the three (3) year period clearly refers to the period from the date of filing, it is a well-recognized principle that a longstanding, practical and plausible interpretation given a statute of doubtful meaning by those responsible for its implementation without any interference by the Legislature should be accepted as evidence that such a construction conforms to the legislative intent. Thus, if it was found that the statute was unclear, the Division's long standing interpretation is entitled to deference. *Trice v. City of Cranston*, 297 A.2d 649 (R.I. 1972).

Thus, not only is the Division's long standing interpretation entitled to deference as no changes have been made to the law by the legislature in 30 years, if a statute is considered ambiguous, deference is given to an administrative agency charged with the interpretation and enforcement of the statute. *Auto Body Ass'n of Rhode Island v. Dept. of Bus. Regulation*, 996 A.2d 91 (R.I. 2010). While this statute is not ambiguous, the Division is afforded deference for its consistent and uniform interpretation of said statute.

iii. Equity

R.I. Gen. Laws § 44-30-2.6(a) provides that Rhode Island taxable income means federal taxable income. Thus, the State's income tax is based on a taxpayer's federal adjusted gross income. The Taxpayer argued that she could not file her Rhode Island income tax return because

of issues with her federal return. She argued that it took two (2) years for the IRS to reply to her.[7] She argued it was not fair to require her to do something – file her Rhode Island return - that she could not do as she had issues with her federal return. In terms of an equitable/fairness argument, equitable principles are not applicable to administrative proceedings. See *Nickerson v. Reitsma*, 853 A.2d 1202 (R.I. 2004) (Supreme Court vacated a Superior Court order that vacated an agency sanction on equitable grounds).

However, the Taxpayer filed a federal return in 2018 so could have used it as a basis for her 2017 Rhode Island return and then amended it if necessary. Nonetheless, the statute does not provide for exemptions. Rather the statute allows for a two (2) year period from the date the taxes were due to request a refund. The Taxpayer filed her return after that two (2) year period.

D. Conclusion

The Taxpayer fell under the two (2) year period to request a refund. She did not file a tax return requesting a refund in that statutory time period. Based on the foregoing, the Taxpayer does not qualify for her claimed refund pursuant to R.I. Gen. Laws § 44-30-87. See *Tax Decision* 2018-05 (June 25, 2018); and *Tax Decision*, 2007-10 (May 10, 2007).

VI. FINDINGS OF FACT

1. On or about November 15, 2021, the Division issued a Notice of Hearing and an Appointment of Hearing Officer to the Taxpayer.

2. A hearing was held on February 18, 2022 with the parties resting on the record.

3. The Taxpayer's 2017 tax payment was due by April 17, 2018 and was deemed paid that day.

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[7] The Taxpayer also testified that she met with the IRS in 2021. Taxpayer's Exhibit One (1) (July 22, 2021 email from IRS to Taxpayer confirming appointment). However, this appointment was for after she filed her Rhode Island 2017 tax return.

4. The Taxpayer filed her 2017 return on June 7, 2021 and claimed a refund for overpayment of tax.

5. Pursuant to R.I. Gen. Laws § 44-30-87(a), the Taxpayer is not entitled to the claimed refund.

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 § 44-30-87(a), the Taxpayer is not entitled to her refund claimed for 2017.

VIII. RECOMMENDATION

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

Pursuant to R.I. Gen. Laws § 44-30-87(a), the Taxpayer is not entitled to her refund claimed for 2017 and the Division properly denied the Taxpayer's claim for the refund.

Date: March 8, 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: 3/8/22

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:

§ 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 11th day of March, 2022, 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 Lenore Montanaro, Esquire, Department of Revenue, One Capitol Hill, Providence, Rhode Island, 02908.

Gail Belasco