STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2022-07

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

IN THE MATTER OF:	:	
	:	**Case No.: 18-T-093**
Taxpayer.	:	

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 October 10, 2018 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. The parties agreed that this matter could be decided on an agreed statement of facts, agreed exhibits, and briefs. The parties agreed to a briefing schedule for initial and reply briefs. The Division timely filed its briefs by February 4, 2022; however, the Taxpayer did not file any briefs.

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.*, R.I. Gen. Laws § 44-19-1 *et seq.*, and 280-RICR-20-00-2 *Administrative Hearing Procedures*.

III. ISSUE

The parties agreed there was a single issue of whether the Taxpayer's sales tax refund claim is valid. The parties divided that answer into two sub-issues. First, does a valid refund claim exist

if one separate business entity claims it is making a tax-exempt use of the property sold and another separate business entity paid the sales tax on the property's purchase. Second, can a sales tax exemption certificate be accepted, as grounds for a refund, after the property at issue has been invoiced, delivered, and paid, and, if so, how long after the original transaction.

IV. MATERIAL FACTS

The parties filed an agreed statement of facts and exhibits ("ASOF") which is summarized as follows:[1]

1. The Taxpayer is a foreign limited liability company that was organized under the laws of Texas in 2013. The Taxpayer qualified to do business in Rhode Island in 2008.

2. During the period of the transaction at issue, the Taxpayer's principal place of business was located in Texas.

3. The Taxpayer's declared business activity is sales and service of oil field pumping equipment. The Taxpayer held a Rhode Island permit to make sales at retail since 2008 and has a history of filing sales tax returns with the Division.

4. On April 12, 2018, the Division received a refund claim from the Taxpayer dated April 11, 2018 for sales tax charged, collected, and remitted between September 1, 2015 and September 30, 2015 ("Refund Claim"). Exhibit Five (5). The asserted basis for the Refund Claim is the customer sent the Taxpayer a sales tax exemption after they were invoiced.

5. On April 16, 2018, the Division received a letter ("Letter") from an accounting firm dated April 13, 2018 indicating that the taxes had been pre-paid on two (2) sales made to exempt entities in September of 2015. Exhibit Six (6).

6. Attached to the Letter was a document that shows two (2) different transactions comprising the Refund Claim. Exhibit Seven (7). The first transaction is for supplier The reason for the exemption on this transaction was "equipment used in generating electricity." The second transaction is for supplier The reason for the exemption on this transaction was "engine gears used in marine tugs." Also attached to the Letter were supporting documents for the transaction (Exhibits Eight (8); Nine (9); and Ten (10)) and the transaction (Exhibits 11, 12, 13).

7. On April 30, 2018, the Refund Claim was assigned for audit and the auditor requested various documents from said accountancy firm. Exhibits 14 and 15. On May 14, 2018, the auditor received a power of attorney form from said accountancy firm.

[1] See partial stipulation of facts and exhibits filed on December 7, 2021.

8. On June 12, 2018, the Division issued a letter denying the Taxpayer's Refund Claim due to lack of documentation substantiating its claim. Exhibit 17. On August 7, 2018, the Division received a written request for administrative hearing on the refund denial.

9. The total measure for the Refund Claim is . Exhibits 20-23. This measure is comprised of two (2) separate transactions: (1) a sale of made on September 21, 2015 to a customer identified as upon which in tax was charged and (2) a sale of made on September 25, 2015 to a customer identified as ' ' upon which in tax was charged . Exhibits 24-25.

10. The ' on Exhibit 25 refers to , a foreign limited liability company organized in Delaware in 2007 and qualified to do business in Rhode Island in 2007. principal place of business is located in Michigan, and at all pertinent times it had a facility located in Rhode Island. declared business activity, at all pertinent times, was "holding company." Exhibit 26.

11. The Sale was shipped to in Rhode Island and billed to in Rhode Island. Exhibit Eight (8).

12. issued a Rhode Island Manufacturer's Exemption Certificate ("MEC") dated October 26, 2015 claiming the purchase was for "spare parts, components and eligible supplies utilized/consumed in the process of generating electricity" .

13. On its accounting system, the Taxpayer issued a credit on December 27, 2015 in the amount of towards sales invoice No. Exhibit Nine (9).

14. on Exhibit 25 refers to two (2) separate entities. The first is , a foreign limited liability company organized in Delaware in 2006 and qualified to do business in Rhode Island later in 2006. principal place of business is in Rhode Island. declared business activity, at all pertinent times, was "ship design, construction and repair." Exhibit 28.

15. The September 25, 2015 Sale was shipped to in Rhode Island but billed to in New York. Exhibit 11.

16. issued the Taxpayer a Rhode Island MEC dated January 8, 2015 claiming the purchase was for "engine gears for use in marine tugs" . Exhibit 13.

17. On its accounting system, the Taxpayer issued a credit on April 30, 2016 in the amount of towards sales invoice No. . Exhibit 12.

18. in Exhibit 25 also refers to , a foreign limited liability company organized in Delaware in 1992 with it principal place of business is located in New York. had no locations, in its own name, in Rhode Island during the pertinent time frame. Exhibits 11, 29, 30.

19. business activities are the maritime transportation of chemicals and petroleum products, ship assist and docking, and escort and towing services. wholly-owned subsidiaries and affiliates also provide related activities such as marine construction, demolition, engineering, and rehabilitation, offshore support services, and a shipyard offering new vessel construction, overhaul, and repair. Exhibit 31.

20. On website, is listed as an affiliate company. Each company has a separate and distinct federal employer identification number ("FEIN"). *Id.*

21. The sales tax for which the Taxpayer seeks a refund was remitted to the Division on October 20, 2015. Exhibit 32. and did not remit the tax for the Sale and the sale to the Taxpayer.

22. The Taxpayer provided both the MEC and the MEC to the Division for review during the audit prior to the issuance of the Refund Claim denial letter on June 12, 2018.

23. On January 29, 2020, the Taxpayer submitted to the Division a Rhode Island MEC dated January 29, 2020, claiming that purchases from the Taxpayer were exempt because the property was "[t]o be used in a vessel primarily engaged in interstate commerce" . Exhibit 33.

24. On June 16, 2020, submitted to the Division a New York State and Local Sales and Use Tax Exempt Use Certificate dated March 25, 2014, claiming that purchases from the Taxpayer were for commercial vessels . Exhibit 34.

25. The Division rejected the and because the former was issued more than four (4) years after the transaction at issue and the latter was issued for New York commercial vessel sales, not Rhode Island sales.

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 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).

B. Relevant Statutes and Regulations

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[2] presumes that all gross receipts are subject to sales tax and the burden of proving otherwise falls on the taxpayer. Certain transactions are exempt from sales tax if they fall under the exemptions contained in R.I. Gen. Laws § 44-18-30. R.I. Gen. Laws § 44-18-30(7) exempts the purchase of equipment for manufacturing purposes as defined by statute, and R.I. Gen. Laws § 44-18-30(22) exempts the purchase of manufacturing machinery and equipment used in manufacturing as defined by statute.

R.I. Gen. Laws § 44-18.1-1 *et seq*. is the statute by which Rhode adopted the streamlined sales and use tax agreement ("SSUTA"). R.I. Gen. Laws § 44-18.1-18 provides for the administering of tax exemptions for streamlined and sales and use tax member states. It provides in part as follows:

> Administration of exemptions.
> (A) Each member state shall observe the following provisions when a purchaser claims an exemption:

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[2] R.I. Gen. Laws § 44-18-25 provides as follows:

> It is presumed that all gross receipts are subject to the sales tax, and that the use of all tangible personal property . . . are subject to the use tax, and that all tangible personal property . . . 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.

This is the current version of this statute. It was amended in 2018 and 2019. Those amendments were not relevant to the issues in this matter. P.L. 2018, ch. 47, art. 4; and § 10; P.L. 2019, ch. 88, art. 5, § 9.

(1) The seller shall obtain identifying information of the purchaser and the reason for claiming a tax exemption at the time of the purchase as determined by the governing board.

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(5) A member state may utilize a system wherein the purchaser exempt from the payment of the tax is issued an identification number that shall be presented to the seller at the time of the sale.

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(C) Each state shall relieve a seller of the tax otherwise applicable if the seller obtains a fully completed exemption certificate or captures the relevant data elements required under the Agreement within 90 days subsequent to the date of sale.

(1) If the seller has not obtained an exemption certificate or all relevant data elements as provided in § 44-18.1-18, subsection (C) the seller may, within 120 days subsequent to a request for substantiation by a member state, either prove that the transaction was not subject to tax by other means or obtain a fully completed exemption certificate from the purchaser, taken in good faith. For purposes of this section, member states may continue to apply their own standards of good faith until such time as a uniform standard for good faith is defined in the Agreement.

R.I. Gen. Laws § 44-18.1-18(C)(1) provides that "good faith" is defined in the Streamlined Sales and Use Tax Agreement ("Agreement").[3] Rhode Island is a SSUTA member as provided for in R.I. Gen. Laws § 44-18.1-1 *et seq*. so it must comply with the related laws as a SSUTA state as well as the provisions of the Agreement. Section 317(D)(1) of the Agreement defines the term "good faith" as follows:

> [M]eans that the seller obtain a certificate that claims an exemption that (i) was statutorily available on the date of the transaction in the jurisdiction where the transaction is sourced, (ii) could be applicable to the item being purchased, and (iii) is reasonable for the purchaser's type of business.

The regulation, 280-RICR-20-70-19, *Manufacturing, Property and Public Utilities Service Used In* ("Manufacturing Regulation")[4] provides in part as follows:

> Section 19.8 Use of Resale or Exemption Certificate
>
> A. In making exempt purchases for use in production, a manufacturer should furnish vendors with either a Resale Certificate, a Manufacturer's Exemption Certificate, or any certificate or statement that contains the required information and signature. However, these certificates should not be utilized in making purchases for

[3] The Division attached the relevant portions of the Agreement to its brief.

[4] Prior to recodification of the regulations in 2018, this was regulation SU 07-58.

use in administration or distribution, as defined above, and a tax must be paid on purchases for these purposes.

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E. When it is not possible at the time tangible personal property or services are purchased to know how they will be used, the manufacturer, processor or convertor may issue a certificate to his vendor and may purchase without the tax. In such a case the purchaser must report and pay directly to the Division of Taxation any tax that is due based on nonexempt use made of the purchases.

Section 19.7 Legal Provisions

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D. In the event that a manufacturer purchases equipment that does not qualify for exemption, it shall pay the tax due at time of purchase. Provided, however;

1. If the equipment purchased partially qualifies for exemption and the manufacturer knows the extent of the partial exemption, the manufacturer shall give the vendor a Manufacturer's Exemption Certificate and file a use tax return with the Division of Taxation and pay a use tax based on the percentage of the nonexempt use of the equipment, or

2. If the equipment purchased partially qualifies for exemption and the manufacturer does not know the extent of the partial exemption, it shall give the vendor a Manufacturer's Exemption Certificate and file a use tax return with the Division of Taxation and pay use tax on the entire cost of the equipment.

C. Arguments

The Division argued that for the Sale, the Taxpayer did not meet the requirements of the statutory 90 or 120 day extension to obtain a MEC. The Division argued that the Taxpayer is not owed a refund for the Sale because the Taxpayer cannot use a MEC from a third party who was not part of the taxable event. The Taxpayer did not file a brief.

D. Whether the Taxpayer's Refund Claim was Properly Denied

Not only are taxation exemption statutes strictly construed against a taxpayer, but "[t]he party claiming the exemption from taxation under a statute has the burden of demonstrating that the terms of the statute illustrate a clear legislative intent to grant such exemption." *Cookson v. Clark*, 610 A.2d 1095, 1098 (R.I. 1992). Tax exemption statutes are also strictly construed in favor of the taxing authority and against the party seeking the exemption. *Fleet Credit Corp. v. Frazier*,

726 A.2d 452, 454 (R.I. 1999). Pursuant to R.I. Gen. Laws § 44-18-25, there is a presumption that the use of all tangible personal property is subject to the use tax.

a. <u>Genco Sale</u>

The Sale related to a transaction dated September 21, 2015. The Sale was shipped to in Rhode Island and billed to in Rhode Island. Exhibit Eight (8). ASOF. issued a Rhode Island MEC dated October 26, 2015.

To receive the exemption from sales tax, R.I. Gen. Laws § 44-18.1-18(A)(1) requires that when a purchaser claims an exemption, "the seller shall obtain identifying information of the purchaser and the reason for claiming the exemption at the time of purchase." Further, R.I. Gen. Laws § 44-18.1-18(A)(5) provides that the exemption shall be presented to the seller at the time of the sale. The statute provides that an exemption certificate be presented at the time of the sale. The Taxpayer did not have an exemption certificate from at the time of sale.

Furthermore, the statutory requirement that the purchaser provide an exemption certificate is reflected in the Manufacturing Regulation since that regulation provides that the purchaser pays the tax when an exemption does not apply. In other words, the exemption would apply at the time of the sale, and the certificate is provided by the purchaser. Section 19.8(E) of the regulation provides that when it is not known how purchased property may be used, the purchaser must pay tax on the nonexempt portion. Section 19.7(D) requires that a manufacturer who purchases equipment that does not qualify for an exemption shall pay the tax at the time of the sale.[5]

[5] This is consistent with the process for tax exempt organizations. The regulation, 280-RICR-20-70-39, *Tax Exempt Organizations and Areas* ("Exempt Regulation") (prior to recodification of the regulation in 2018, this was regulation SU 07-48) provides that a tax exempt organization cannot make tax exempt purchases until it has received an exemption certificate. This is analogous to the manufacturing purchaser needing to provide the exemption certificate at the time of the sale.

However, under narrow circumstances, Rhode Island law applies two (2) other time periods if a seller is not in possession of an exemption certificate at the time of the sale. R.I. Gen. Laws § 44-18.1-18(C) and R.I. Gen. Laws § 44-18.1-18(C)(1). For the Taxpayer to fall under the 90 day extension provided for by R.I. Gen. Laws § 44-18.1-18(C), the Taxpayer has to prove that it "obtain[ed] a fully completed exemption certificate or capture[d] the relevant data elements required . . . within 90 days subsequent to the date of sale."

Here, the MEC is dated on October 26, 2015 which is only 35 days after the date of sale of September 21, 2015. The Taxpayer remitted the sales tax to the Division for the Sale on October 20, 2015. Exhibit 32. ASOF. The Taxpayer credited its accounting system for the tax exemption on December 27, 2015. Exhibit Nine (9). ASOF. The Division argued that since the Taxpayer did not credit its system for the tax until December 27, 2015, the implication is that it did not obtain the MEC until that date which is 97 days after the sale.

The Taxpayer had to demonstrate when it received the MEC, but it provided no evidence of when it received or obtained this MEC. While the exemption is dated within 90 days of the date of sale, it is unclear when it was received from the Taxpayer. Presumably, the Taxpayer would not have credited the sales tax in its accounting system until it obtained the MEC. The Taxpayer did not provide any information to the Division or evidence of when it received the MEC.

Additionally, R.I. Gen. Laws § 44-18.1-18(C)(1) provides a 120 day period for which a seller "may within 120 days subsequent to a request for substantiation by a member state, either prove that the transaction was not subject to tax by other means or obtain a fully completed exemption certification from the purchaser, taken in good faith." Thus, the 120 day period applies when a seller is asked by a state to substantiate a claim for tax exemption. In this matter, the MEC was submitted as part of the Refund Claim on April 16, 2018. On April 30, 2018, the

Division requested further information from the Taxpayer. Exhibits Six (6) and 14. The MEC was not supplied in response to a request for substantiation.

The Taxpayer may not have realized it should have resubmitted the MEC again; however, even if it had, in order to fall under the 120 day provision, the Taxpayer needed to fall under the good faith provisions in the statute and Agreement. In order to show good faith, the Taxpayer would need to show that the exemption was (i) statutorily available on the date of the transaction, (ii) could be applicable to the item being purchased, and (iii) is reasonable for the purchaser's type of business.

The Division raised issues regarding whether the MEC was applicable to the items purchased. The tax exemption claimed was for the manufacturing exemption, but the items purchased were spare parts, components, supplies utilized/consumed in generating electricity. Exhibit Ten (10). There was no evidence that those parts were being used in manufacturing. R.I. Gen. Laws § 44-18-30(7) and (22). Furthermore, the Division pointed out that is a holding company so that would raise the question of whether the purchase was reasonable for purchaser's type of business.

A party claiming the exemption has the burden of demonstrating that the terms of the statute illustrate a clear legislative intent to grant such exemption. *Supra*. 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. The Taxpayer did not provide evidence that it met the statutory requirements of either the 90 day or 120 time period.

b. Sale

i. MEC

On September 26, 2015, the Taxpayer sold property to and received the property. The invoice for said sale indicated the Taxpayer was the seller and was billed and received the property. Exhibit 11. issued the Taxpayer a Rhode Island MEC dated January 8, 2015 for the September, 2015 invoiced sale. Exhibit 13. ASOF.

As was billed and paid for the property, it was the purchaser of the property. It was not disputed by the Taxpayer that was the purchaser. *Keystone Auto Leasing v. Norberg*, 486 A.2d 613, 615 (R.I. 1985) discussed whether federal employees were exempt from sales tax on certain purchases that they made and found that they were not tax exempt even if the federal government was tax exempt from sales tax. The Court looked at who was the actual purchaser of the items. The Court called this the "legal incidence" test which requires a determination of who is the "purchaser" upon whom the ultimate burden of the tax will fall.

Here, was the purchaser so that under the legal incidence tax, the tax fell on . was not the purchaser. No claim was made by the Taxpayer that somehow these companies were the same. But it is noted that these two (2) companies are separate corporations with separate FEIN's. *Lily Truck Leasing Corp. v. Clark*, 556 A.2d 565 (R.I. 1989).

As required by R.I. Gen. Laws § 44-18.1-18(A)(1) and (5), it is the purchaser who provides the tax exemption certificate. Additionally, the Manufacturing Regulation also speaks of receiving the tax exemption certificate at the time of the sale. Sections 19.7, 19.8. *Supra.*

Therefore, the 2015 MEC is not applicable to the 2015 sale as was the purchaser so that the property was taxable pursuant to R.I. Gen. Laws § 44-18-18 and R.I. Gen. Laws § 44-18-25.

ii. The MEC was not Timely

On January 29, 2020, the Taxpayer submitted to the Division a Rhode Island MEC dated January 29, 2020, claiming that 2015 purchase from the Taxpayer was exempt. This MEC indicated that was the purchaser and the property purchased should be exempt from sales tax. Exhibit 33. ASOF. This MEC was issued over four (4) years from the 2015 invoiced sale.

To receive an exemption from sales tax, R.I. Gen. Laws § 44-18.1-18(A)(1) requires that when a purchaser claims an exemption, "the seller shall obtain identifying information of the purchaser and the reason for claiming the exemption at the time of purchase." R.I. Gen Laws § 44-18.1-18(A)(5) provides that the exemption shall be presented to the seller at the time of the sale. Furthermore, since the statute requires the exemption be presented at the time of sale, the 90 day extension provided for in R.I. Gen Laws § 44-18.1-18(C) is dated from the date of sale. Additionally, the Manufacturing Regulation also speaks of receiving the tax exemption certificate at the time of the sale. Sections 19.7, 19.8. The Taxpayer did not have a certificate from at the time of sale.

iii. Exemption to Time Requirements

As the Taxpayer did not file a brief, it is unclear if the Taxpayer felt it fell under the either statutory provisions regarding the failure to provide a timely exemption certificate. However, the MEC does not fall within either of the statutory exemption provisions. For the MEC to be used the Taxpayer, the Taxpayer had 90 days from the date of sale to provide such certificate under certain conditions. R.I. Gen. Laws § 44-18.1-18(C). As provided the certificate more than four (4) years later, the 90 period could not apply to the 2015 transaction.

Unlike the Sale, the MEC was not provided at the time of the Refund Claim. Like for the Sale, the Division requested that the Taxpayer provide further information regarding its tax exemption claim. For the 120 period to apply, the Taxpayer needed to provide substantiation within 120 days of the Division's request and fall under the good faith provisions. *Supra*. The MEC was provided to the Division almost two (2) years after the Division requested information. Thus, it was not supplied within 120 days of the request so it not necessary to discuss whether it met the good faith provisions.

iv. <u>Out of Sate Exemption Certificates Not Applicable</u>

On June 16, 2020, the Taxpayer submitted to the Division a New York State and Local Sales and Use Tax Exempt Use Certificate dated March 25, 2014 claiming that purchases from the Taxpayer were for commercial vessels. Exhibit 34. However, R.I. Gen. Laws § 44-18-25 requires that such certificates be on a form approved by the Rhode Island tax administrator. Thus, this out of state certificate cannot be accepted.[6] As stated in § 39.7 of the Exempt Regulation, Rhode Island does not recognize exemption certificates issued by other states.

E. Conclusion

The purchaser must provide a MEC at the time of sale. There are two (2) statutory provisions that extend that time period. However, neither the 90 nor 120 time period applied to these two (2) claims. Based on the foregoing, the Division properly denied the Refund Claim.

VI. <u>FINDINGS OF FACT</u>

1. On or about October 10, 2018, the Division issued the Notice to the Taxpayer.

[6] As the New York certificate cannot be used, there need not be a discussion of whether it actually applies to the 2015 transaction at issue. The Division, in its brief, raised questions over the accuracy of this certificate.

2. The parties agreed that this matter could be decided on an agreed statement of facts, agreed exhibits, and briefs. The Division timely filed its briefs by February 4, 2022. The Taxpayer did not file a brief.

3. The facts contained in Section IV 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 § 44-1-1 *et seq.*, R.I. Gen. Laws § 44-18-1 *et seq.*, and R.I. Gen. Laws § 44-19-1 *et seq.*

3. Pursuant to R.I. Gen. Laws § 44-18-1 *et seq.*, R.I. Gen. Laws § 44-18.1-1 *et seq.*, and R.I. Gen. Laws § 44-19-1 *et seq.*, the Taxpayer was not entitled to its Refund Claim.

VIII. RECOMMENDATION

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

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 § 44-18.1-1 *et seq.,* the Taxpayer was not entitled to its claims for refund, and the Division properly denied the Refund Claim.

Date: March 30, 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: 4/1/22

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 THE FOLLOWING STATUTE 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 1st day of ~~March~~ April, 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 representative's address on file with the Division of Taxation and by electronic delivery to Matthew Cate, Esquire, Department of Revenue, One Capitol Hill, Providence, Rhode Island, 02908.

Gail Balasco