

STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2024-15

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.: 24-T-013

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 (“Notice”) dated April 23, 2024 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 June 11, 2024 with the parties resting on the record. The Division was represented by counsel, and the Taxpayer was *pro se*.

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.*, *Division of Taxation Administrative Hearing Procedures Regulation AHP 97-0*, and the *Division of Legal Services Regulation 1 Rules of Procedure for Administrative Hearings*.

III. ISSUE

Whether the Taxpayer’s claimed refund for the calendar year 2019 should have been denied by the Division.

IV. MATERIAL FACTS AND TESTIMONY

(“Auditor”), Principal Tax Auditor, testified on behalf of the Division. He testified that the Taxpayer’s 2019 non-resident Rhode Island income tax return was due on July 15, 2020 rather than the usual April 15, 2020 because of the Covid19 pandemic. He testified the Taxpayer’s 2019 return was filed on March 21, 2023, and the Taxpayer requested a refund for overpayment of tax owed. He testified the refund request was denied pursuant to R.I. Gen. Laws § 44-30-87 since the Taxpayer did not fall under either statutory time period allowed to request a refund. Division’s Exhibits Two (2) (Taxpayer’s 2019 return received on March 21, 2023); Three (3) (July 19, 2023 denial of refund request); and Four (4) (Taxpayer’s request for hearing).

The Taxpayer testified on his behalf. He testified that he does not dispute the facts in this matter but that there are extenuating circumstances to his late filing and request for refund. He testified that he filed his 2018 federal income tax return in 2020 which was not processed until July 19, 2021 and was processed incorrectly by the IRS. He testified that he assumes the IRS delay was due to Covid19. He testified the IRS had to re-process his 2018 return in 2021 because of the errors, and that was not completed until 2022 (September 16, 2022 based on his timeline). He testified that after the IRS properly processed his 2018 return, he filed his 2019 return with Rhode Island. Taxpayer’s Exhibit One (1) (his timeline).

On cross-examination, the Taxpayer testified that he had income in 2019 and knew his 2019 income at that time. He testified that he would have been able to file a 2019 return, but it would not have been accurate. He testified that he had been making quarterly payments. He testified that line one (1) on the Rhode Island income tax return states to enter your federal income from your federal return, and he did not have a 2019 federal return from which to enter income because of the problems with the 2018 federal return.

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. Arguments

The Division argued the refund time limits are statutory, there is no exception in the statute for extenuating circumstances, and equity does not apply. It argued that in 2019, the Taxpayer had the information needed to file his 2019 return with Rhode Island so he could have filed on time.

The Taxpayer argued that if there are no exceptions to the rules on refunds what is the purpose of having a hearing.

D. 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),¹ the Taxpayer's tax for 2019 was deemed paid on the date it was due: April 15, 2020. In addition, R.I. Gen. Laws § 44-30-51² states that Rhode Island personal income tax returns are to be filed by April 15 after the close of the taxable year.

¹ 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.

² 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.

R.I. Gen. Laws § 44-30-52³ states that tax shall be paid on or before the date fixed for filing without regard to an extension. In addition, R.I. Gen. Laws § 44-30-87(e)⁴ 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:

1. The Taxpayer's 2019 tax was deemed paid on April 15, 2020. 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 his 2019 Rhode Island return on March 21, 2023.
3. March 21, 2023 is past the two (2) year period from the date the taxes were deemed paid that is allowed for requesting a refund.
4. Applying the Covid19 due date for 2019 tax returns, the Taxpayer's 2019 return was due on July 15, 2020 and deemed paid that day. The Taxpayer filed his 2019 Rhode Island return on March 21, 2023. If July 15, 2020 is deemed the date paid for 2019 taxes because of Covid19, March 21, 2023 is still past the two (2) year period from the date the taxes were deemed paid that is allowed for requesting a refund.

³ 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.

⁴ 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.

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

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

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

8. 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.”

9. The Taxpayer has not paid any tax from March 21, 2023 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.⁵

The Taxpayer did not dispute that his 2019 return was filed late under the statute. He argued that there were extenuating circumstances because of the delay by the IRS in processing his 2018 federal return. The Taxpayer admitted that he knew his income in 2019 and could have filed a 2019 return. He also argued that he had not filed a federal income tax return prior to when Rhode Island's return was due, so he did not have the federal adjusted income from a federal tax return to put on line one (1) of the Rhode Island return. However, R.I. Gen. Laws § 44-30-2.6(a) defines "Rhode Island taxable income" as follows:

federal taxable income as determined under the Internal Revenue Code, 26 U.S.C. § 1 et seq., not including the increase in the basic, standard-deduction amount for married couples filing joint returns as provided in the Jobs and Growth Tax Relief

⁵ The District Court has upheld the denial of out time refund requests in *Curry v. Savage*, 6AA-2016-59 (3/23/20); and *Shippee v. Sullivan*, 6AA-2011-110 (10/29/18). The District Court in *Schmidt v. Division of Taxation*, 6AA-22-213 (5/25/24) overturned a denial of an out of time refund request with the Division filing a *Petition for Writ of Certiorari* with the Rhode Island Supreme Court on May 15, 2024.

Reconciliation Act of 2003 and the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), and as modified by the modifications in § 44-30-12.

The Taxpayer did not need to file a federal income tax return to file his 2019 return. It might be easier to use the federal adjusted gross income from the federal return on the Rhode Island return, but it is not a requirement that the federal return be filed before the State return. It just is easier and most likely usually done in that order. Nonetheless, the Taxpayer did know his 2019 income. He could have filed a Rhode Island 2019 return.

There are no statutory provisions to provide for more time due to extenuating circumstances than the two (2) or three (3) year periods already provided for by statute to file a refund request. In addition, the Taxpayer is making an equitable (fairness) argument in arguing that the refund should be granted because of extenuating circumstances. However, 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).

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

VI. FINDINGS OF FACT

1. On or about April 23, 2024, the Division issued a Notice of Hearing and an Appointment of Hearing Officer to the Taxpayer.
2. A hearing was held on June 11, 2024 with the parties resting on the record.
3. The Taxpayer's 2019 tax payment was statutorily deemed paid on April 15, 2020 but that due date was extended because of the Covid19 pandemic to July 15, 2020 so that the 2019 tax payment was deemed paid that day.

4. The Taxpayer filed his 2019 return on March 21, 2023 and claimed a refund.
5. The Taxpayer's 2019 return was filed more than two (2) years from either April 15, 2020 or July 15, 2020.
6. There are no statutory provisions that extend the two (2) or three (3) year period for extenuating circumstances.
7. 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 the refund claimed.

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 the refund claimed for 2019, and the Division properly denied the Taxpayer's claim for the refund.

Date: June 27, 2024


Catherine R. Warren
Hearing Officer

ORDER

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby take the following action with regard to the Decision and Recommendation:

☒ ADOPT
☐ REJECT
☐ MODIFY

Dated: 6/28/24

Neena S. Savage
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:

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 28th day of June, 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 and by electronic delivery to John Beretta, Esquire, Division of Taxation, One Capitol Hill, Providence, Rhode Island, 02908.

Paul Belasce