

STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2024-18

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

IN THE MATTER OF:	:	
	:	
	:	24-T-020
	:	sales tax refund
	:	
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 dated May 1, 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. The Taxpayer did not appear for the prehearing conference scheduled for June 18, 2024. By letter dated June 18, 2024, the Taxpayer was notified that a full hearing would be held on July 24, 2024. A hearing was held on July 24, 2024 at which time the Taxpayer did not appear. Since the Taxpayer was adequately noticed of hearing,¹ a hearing was held before the undersigned on July 24, 2024. Pursuant to Section 2.7(G)(3) of the 280-RICR-20-00-2 *Administrative Hearing Procedures* (“Hearing Regulation”), a default judgment may be entered against the party not appearing at hearing. The Division was represented by counsel and rested on the record.

¹ The notice for the June 18, 2024 prehearing conference was sent by first class and certified mail to the Taxpayer to the address on record with the Division. Division’s Exhibit 10 (said notice and print out of the United States Post Office certified mail tracking sheet showing delivery). Notice of the July 24, 2024 full hearing was sent to the Taxpayer by letter dated June 18, 2024, and was sent by first class and certified mail to the Taxpayer’s address on record with the Division. Division’s Exhibit 11 (June 18, 2024 letter and print out of the United States Post Office certified mail tracking sheet showing certified mail was delivered).

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 the Hearing Regulation.

III. ISSUE

Whether the Division properly denied the Taxpayer's sales tax refund claim.

IV. MATERIAL FACTS AND TESTIMONY

Tax Auditor II, testified on behalf of the Division. She testified the Division received a refund for sales tax request from the Taxpayer on March 31, 2022. She testified the Taxpayer submitted invoices showing its customers had provided sales tax exemption forms, so the Taxpayer refunded the collected sales tax to the customers and was now asking for a refund of sales tax from the Division. She testified the January and February, 2017 and January, 2018 requests were denied as out of time under R.I. Gen. Laws § 44-19-26, and the Division requested further information about the other refund requests. Division's Exhibits Two (2) and Three (3). She testified the Taxpayer did not provide all the requested information, so she sent the Taxpayer a denial for those other refund claims. Division's Exhibit Five (5). She testified the Taxpayer requested to reopen the matter and sent in amended returns, and a preliminary conference was held, and more documentation was requested from the Taxpayer. Division's Exhibit Eight (8) (email confirming the further documentation required as discussed at the conference). She testified that as the Taxpayer did not respond with the further information, she forwarded a letter to the Taxpayer indicating that if she had not heard by September 30, 2023, the matter would be forwarded for a full hearing. Division's Exhibit Nine (9). She testified that again the Taxpayer did not respond so the matter was scheduled for hearing. Division's Exhibits 10 and 11.

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 will “give the words their plain and ordinary meaning.” *Hough v. McKiernan*, 108 A.3d 1030, 1035 (R.I. 2015) (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. 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. *Hough*; and *Providence Journal Co. v. Rodgers*, 711 A.2d 1131 (R.I. 1998).

B. **Relevant Statutes**

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 § 44-19-26 provides as follows:

Payment of refunds. Whenever the tax administrator determines that any person is entitled to a refund of any moneys paid by a person under the provisions of chapters 18 and 19 of this title, or whenever a court of competent jurisdiction orders a refund of any moneys paid, the general treasurer shall, upon certification by the tax administrator and with the approval of the director of administration, pay the refund from any moneys in the treasury not appropriated without any further act or resolution making appropriation for the refund. No refund is allowed unless a claim is filed with the tax administrator within three (3) years from the fifteenth (15th) day after the close of the

month for which the overpayment was made, or, with respect to determinations made under §§ 44-19-11 — 44-19-14, within six (6) months from the date of overpayment, whichever period expires later.

R.I. Gen. Laws § 44-18.1-18(C) provides in part as follows:

(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 [Streamlined Sale and Tax] 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. ***

C. Whether the Division Properly Denied the Refund Request

It was undisputed the Taxpayer's request for refund was filed by the Taxpayer on March 31, 2022. It was undisputed the Taxpayer's refund claims for January 31, 2017, February 28, 2017, and January 28, 2018 were out of time pursuant to R.I. Gen. Laws § 44-19-26 as they were not filed within three (3) years from the 15th day after the close of the month for which the overpayment was made

It was undisputed the Division requested information – in other words, a request for substantiation – from the Taxpayer for the other refund claims. A preliminary conference was held with the Taxpayer and a follow up email was sent confirming what further items were needed from the Taxpayer. It was undisputed the Taxpayer did not respond. The Division sent a further letter to the Taxpayer stating that as no information was supplied by the Taxpayer after the preliminary conference, the matter would be forwarded for full hearing if the Division did not hear from the Taxpayer by September 23, 2023. It was undisputed the Taxpayer did not respond to that letter either. It was undisputed that upon request by the Division, the Taxpayer did not substantiate its request for sale tax refund for the claims there were not out of time.

VI. FINDINGS OF FACT

1. On or about May 1, 2024, the Division issued a Notice of Pre-Hearing Conference and an Appointment of Hearing Officer to the Taxpayer.

2. By letter dated June 18, 2024, the Taxpayer was notified that a full hearing would be held on July 24, 2024.

3. A hearing in this matter was held on July 24, 2024. The Taxpayer did not appear. As the Taxpayer was adequately notified of the hearing, a hearing was held with the Division resting on the record. The Taxpayer is in default for failing to appear at the hearing.

4. The Taxpayer filed a claim for sales tax refund. Some claims were filed more than three (3) years from the 15th day after the close of the month for which the tax was paid. For the other claims, the Taxpayer did not provide the information requested by the Division to substantiate those refund claims.

5. The facts contained in Sections I, IV, and V 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.*, R.I. Gen. Laws § 44-18-1 *et seq.*, and 280-RICR-20-00-2 *Administrative Hearing Procedures*

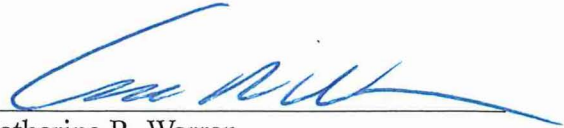
2. Pursuant to R.I. Gen. Laws § 44-19-26 and R.I. Gen. Laws § 44-18.1-18(c), the Taxpayer is not entitled to its claim for sales tax refunds because they were either out of time or failed to be substantiated upon request by the Division.

VIII. RECOMMENDATION

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

Pursuant to R.I. Gen. Laws § § 44-19-26 and R.I. Gen. Laws § 44-18.1-18(C), the Taxpayer is not entitled to its claim for refund, so the Division was correct in denying said refund request.

Date: August 13, 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: 8/20/24


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 § 44-19-18 WHICH PROVIDES AS FOLLOWS.

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 20th day of August, 2024, a copy of the above Decision and Notice of Appellate Rights were sent by first class mail, postage prepaid and certified mail, return receipt to the Taxpayer'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.

