

STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2024-31

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

\_\_\_\_\_  
**IN THE MATTER OF:**

**Taxpayer.**  
\_\_\_\_\_

:  
:  
:  
:  
:  
:  
:

**Case No.: 24-T-041  
personal income tax**

**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 October 8, 2024 and issued to the above-captioned taxpayers (“Taxpayers”) by the Division of Taxation (“Division”) in response to a request for hearing filed with the Division. A hearing was held on December 5, 2024 at which time the Taxpayers did not appear. Since the Taxpayers were adequately noticed of hearing,<sup>1</sup> a hearing was held before the undersigned on December 5, 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.

**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*.

\_\_\_\_\_  
<sup>1</sup> The notice of hearing scheduling the matter for the hearing on December 5, 2024 was sent by first class mail and certified mail to the Taxpayer’s representative’s address on record with the Division. Division’s Exhibit 15 (notice of the hearing and the United States Post Office print out showing delivery of certified mail showing delivery) and Ten (10) (Taxpayer’s power of attorney form).

### **III. ISSUE**

Whether the Taxpayers claimed refund for the calendar year 2020 should have been denied by the Division.

### **IV. MATERIAL FACTS AND TESTIMONY**

Principal Tax Auditor, testified on behalf of the Division. He testified the Taxpayers' Rhode Island 2020 resident return was filed on October 13, 2021, and the Taxpayers filed an amended 2020 return on September 6, 2023. He testified that payments that were made by the Taxpayers – carryover overpayment, withholding, extension filing - were deemed paid on May 17, 2021 per the Division's advisories. He testified that R.I. Gen. Laws § 44-30-87 applies to the Taxpayers' request for refund, but the Taxpayers do not fall under either the two (2) or three (3) year provisions so cannot obtain a refund. Division's Exhibits One (1) (2020 instructions for filing Rhode Island personal income tax return); Two (2) (advisories that 2020 personal income tax returns would be due May 17, 2021); Three (3) (Taxpayers' extension payment dated May 14, 2021); Four (4) (Taxpayers' 2020 return filed October 13, 2021); Five (5) (Taxpayers' amended 2020 return filed September 6, 2023); Seven (7) (notice of refund denial); Eight (8) (request for hearing); 11 (Division letter dated June 6, 2024 explaining denial); and 16 (Division records showing Taxpayers' payments).

### **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),<sup>2</sup> the Taxpayers' tax for 2020 would usually have been deemed paid on April 15, 2021 but the due date for 2020 was May 17, 2021. In addition, R.I. Gen. Laws § 44-30-51<sup>3</sup> 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<sup>4</sup> 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)<sup>5</sup> 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 Taxpayers' 2020 tax was deemed paid on May 17, 2021.

---

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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.

2. The Taxpayers were able to request a refund two (2) years from the date of filing. 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 Taxpayers filed their amended return on October 6, 2023.

3. No payments were made within the two (2) years prior to the filing of the amended return.

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 Taxpayers may file a request for a refund within three (3) years of filing of the return so from October 13, 2021.

7. The Taxpayers were within the three (3) year period to claim a refund when they filed their amended return on September 6, 2023 and claimed 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 Taxpayers have not paid any tax from May 17, 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.<sup>6</sup>

---

<sup>6</sup> 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* which was granted by the Rhode Island Supreme Court on October 21, 2024.

## **VI. FINDINGS OF FACT**

1. On or about October 8, 2024, the Division issued a Notice of Hearing and an Appointment of Hearing Officer to the Taxpayers.
2. A hearing was held on December 5, 2024 at which time the Taxpayers did not appear. The Taxpayers are in default for failing to appear. The Division rested on the record.
3. The facts contained in Section IV and V are reincorporated by reference herein.
4. Pursuant to R.I. Gen. Laws § 44-30-87(a), the Taxpayers are 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 Taxpayers are 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 Taxpayers are not entitled to the refund claimed for 2020, and the Division properly denied the Taxpayers' claim for the refund.

Date:

December 19, 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: 12/28/24

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.**

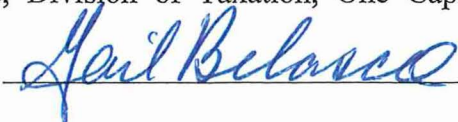
(a) *General.* Any taxpayer aggrieved by the decision of the tax administrator or his or her designated hearing officer as to his or her Rhode Island personal income tax may within thirty (30) days after notice of the decision is sent to the taxpayer by certified or registered mail, directed to his or 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 23<sup>rd</sup> day of December, 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 requested to the Taxpayer's representative's address on file with the Division and by electronic delivery to Matthew Cate, Esquire, Division of Taxation, One Capitol Hill, Providence, Rhode Island, 02908.

  
\_\_\_\_\_