

STATE OF RHODE ISLAND
DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2025-02

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

IN THE MATTER OF:

**Case No.: 24-T-039
2022 Personal Income Tax**

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 September 18, 2024 and issued to the above-captioned taxpayer (“Taxpayer”) by the Division of Taxation (“Division”) in response to a request for hearing. The Taxpayer did not appear at the prehearing conference scheduled for November 13, 2024. By letter dated November 14, 2024, the Taxpayer was notified that a full hearing would be held on December 11, 2024. A hearing was held on December 11, 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 December 13, 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 December 11, 2024 hearing was sent by first class and certified mail to the Taxpayer’s power of attorney. Division’s Exhibit 15 (said notice and print out of the United States Post Office certified mail tracking sheet showing delivery); and Nine (9) (power of attorney for Taxpayer).

II. JURISDICTION

The Division has jurisdiction over this matter pursuant to R.I. Gen. Laws § 42-35-1 *et seq.*, R.I. Gen. Laws § 44-1-1 *et seq.*, and Hearing Regulation.

III. ISSUE

Whether the Division should have offset the Taxpayer's 2022 personal income tax refund.

IV. MATERIAL FACTS AND TESTIMONY

Principal Revenue Agent, testified on behalf of the Division. He testified the Taxpayer filed a nonresident Rhode Island income tax return for 2022 with an overpayment of which was subject to an offset by the Division for his sales tax liability. He testified the Taxpayer had previously entered into a pretrial diversion agreement in United States District Court in which he had agreed to pay the sales and cigarette taxes that he owed to the Division arising out of a convenience store business. He testified that as a result of this diversion agreement, the Division issued the Taxpayer a notice of deficiency for sales taxes owed. Division's Exhibits One (1) (United States District Court pretrial diversion agreement by Taxpayer dated September 14, 2009); Two (notice of deficiency dated October 2, 2009); Three (3) (Taxpayer's nonresident 2022 Rhode income tax return); Four (4) (overpayment adjustment notice dated August 2, 2023); and Six (6) (request for hearing).

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) (citing *Cocchini v. City of Providence*, 479 A.2d 108 (R.I. 1984)). 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

R.I. Gen. Laws § 44-1-8 provides as follows:

Taxes and fees as debt to state. Every tax, excise, or fee including any penalty, interest, or other charge payable to the tax administrator shall, from the time the tax, excise, or fee becomes due and payable, also become a debt to the state.

R.I. Gen. Laws § 44-1-11 provides as follows:

Refund or credit for overpayments. Whenever an erroneous payment or any payment in excess of the correct amount of any tax, excise, fee, penalty, interest, or other charge is made to the tax administrator, the general treasurer shall, after certification by the tax administrator with the approval of the director of administration, refund the erroneous payment or overpayment, or the tax administrator may credit the erroneous payment or overpayment against any tax then or thereafter due, as the circumstances may warrant.

R.I. Gen. Laws §§ 44-30-86(a) provides as follows:

Overpayment.

(a) General. The tax administrator within the applicable period of limitations may credit an overpayment against any liability of the taxpayer in respect of the Rhode Island personal income tax, and the balance shall be refunded by the general treasurer. A payment for a year of no liability shall be considered an overpayment. Any refund under this section shall be made only upon a certificate of the tax administrator approved by the director of administration. In no case shall the filing of a protest constitute a condition to a later credit or refund of Rhode Island personal income tax.

C. Whether Division Properly Offset the Taxpayer's 2022 Tax Refund

It was undisputed the Taxpayer has an outstanding sales tax liability owed to the Division. Pursuant to R.I. Gen. Laws § 44-1-8, R.I. Gen. Laws § 44-1-11, and R.I. Gen. Laws § 44-30-86(a), the Taxpayer's sales tax liability is subject to be offset against an overpayment of personal income tax. Based on the foregoing, the Division properly offset the Taxpayer's overpayment of his 2022 income tax owed.

VI. FINDINGS OF FACT

1. On or about September 18, 2024, the Division issued a Notice of Pre-Hearing Conference and Appointment of Hearing Officer to the Taxpayer.
2. By letter dated November 14, 2024, the Taxpayer was notified that a full hearing would be held on December 11, 2024.
3. A hearing in this matter was held on December 11, 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's 2022 overpayment of income tax was offset against sales tax liability that he owes the Division.
5. The facts contained in Section IV and V are incorporated by reference herein.

VII. CONCLUSIONS OF LAW

Based on the testimony and facts presented:

1. R.I. Gen. Laws § 44-1-8, R.I. Gen. Laws § 44-1-11, and R.I. Gen. Laws § 44-30-86(a) authorize that the overpayment of personal income tax may be offset against sales tax liabilities owed to the Division.

2. The Division offset the Taxpayer's 2022 personal income tax refund pursuant R.I. Gen. Laws § 44-1-8, R.I. Gen. Laws § 44-1-11, and R.I. Gen. Laws § 44-30-86(a).

VIII. RECOMMENDATION

Based on the above analysis, the Hearing Officer recommends as follows: the Division was authorized by R.I. Gen. Laws § 44-1-8, R.I. Gen. Laws § 44-1-11, and R.I. Gen. Laws § 44-30-86(a) to offset the Taxpayer's 2022 overpayment of income tax against his owed sales tax liability. There are no grounds for the Taxpayer's appeal so that the appeal is dismissed.

Date: January 2, 2025



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: January 2, 2025


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 3rd day of January, 2025 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 Williamson, Esquire, Department of Revenue, One Capitol Hill, Providence, RI 02903.