

STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2025-07

**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-044**
: **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 dated November 6, 2024 and issued to the above-captioned taxpayer (the estate of a decedent taxpayer) (“Taxpayer”) by the Division of Taxation (“Division”) in response to a request for hearing. The Taxpayer did not appear for the prehearing conference scheduled for January 3, 2025. By letter dated January 3, 2025, the Taxpayer was notified that a full hearing would be held on February 4, 2025. A hearing was held on February 4, 2025 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 February 4, 2025. 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 January 3, 2025 prehearing conference was sent by first class and certified mail to the Taxpayer’s power of attorney’s address on record with the Division. Division’s Exhibits Nine (9) (said notice and print out of the United States Post Office certified mail tracking sheet showing delivery); and Six (6) (power of attorney). Notice of the February 4, 2025 hearing was sent to the Taxpayer’s power of attorney by letter dated January 3, 2025, and was sent by first class and certified mail to the Taxpayer’s power of attorney’s address on record with the Division. Division’s Exhibit 14 (January 3, 2025 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 § 44-23-1 *et seq.*, R.I. Gen. Laws § 44-1-1 *et seq.*, and the Hearing Regulation.

III. ISSUE

Whether the penalty and interest assessed on the Taxpayer's estate tax should be waived.

IV. MATERIAL FACTS AND TESTIMONY

Senior Tax Auditor, testified on behalf of the Division. He testified the Taxpayer died on January 6, 2022 and estate tax is due nine (9) months after death so the Taxpayer's tax was due by October 6, 2022. He testified the Taxpayer filed the tax return on August 18, 2023 and only paid the \$50 filing fee. He testified that an extension of time for the filing of the return was never filed and that even if an extension had been filed that would not have delayed the due date of taxes owed. He testified the Division recalculated the tax due based on the Taxpayer's return and forwarded a letter to the Taxpayer explaining the recalculation and assessment of interest and penalties. He testified a second letter was sent to the Taxpayer with an updated recalculation regarding the tax, interest, and penalty imposed. He testified that in response to the second letter, the Taxpayer paid the estate tax owed but requested a waiver of the penalty and interest assessed. He testified the waiver request was denied since the tax assessment was not illegal or uncollectable or excessive. He testified the Taxpayer then requested a hearing and as it was not able to be resolved by preliminary conference, the Taxpayer requested a full hearing. He testified that Division's Exhibit 11 shows the interest and penalty owed by the Taxpayer as of the date of hearing. He testified that interest is no longer accruing as the Taxpayer paid the tax owed. Division's Exhibits One (1) (Taxpayer's form RI-709 tax return filed August 8, 2023 showing date of death); Two (2) (September 9, 2023 letter to Taxpayer regarding recalculation of tax, and interest

and penalty owed); Three (3) (October 17, 2023 letter to Taxpayer regarding recalculation of tax, and interest and penalty owed); Four (4) (February 16, 2024 payment of tax by the Taxpayer with request for waiver of interest and penalty); Five (5) (April 5, 2024 denial of waiver request); Six (6) through Eight (8) (request for hearing, preliminary conference scheduled, request for full hearing); and 11 (statement of account of what Taxpayer owes as of February 4, 2025).

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. DEM*, 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**

R.I. Gen. Laws § 44-23-1² provides in part follows:

Statements filed by executors, administrators and heirs-at-law (a) Every executor, administrator, and heir-at-law, within nine (9) months after the death of the decedent, shall file with the tax administrator a statement under oath showing the full and fair cash value of the estate, the amounts paid out from the estate for claims, expenses, charges, and fees, and the statement shall also provide the names and addresses of all persons entitled to take any share or interest of the estate as legatees or distributees of the estate.

² This was the version of the statute in effect at time of Taxpayer’s death.

R.I. Gen. Laws § 44-22-1(a) provides a “tax is imposed upon the transfer of the net estate of every resident or nonresident decedent as a tax upon the right to transfer” and provides the various tax rates based on the amount of the estate.

R.I. Gen. Laws § 44-22-1.1(a)(4) provides that “decedents whose death occurs on or after January 1, 2015, a tax is imposed upon the transfer of the net estate of every resident or nonresident decedent as a tax upon the right to transfer.”

R.I. Gen. Laws § 44-23-16 provides as follows:

Time taxes due — Interest and additions to tax on delinquent payments. All taxes imposed by chapter 22 of this title, unless provided, are due and payable nine (9) months after the date of death of the decedent. If the taxes are not paid within nine (9) months from the date of death, interest shall be charged and collected at the annual rate provided by § 44-1-7 from the time the tax is due, determined without regard to any extension of time for payment. In addition, if the taxes are not paid when due (determined with regard to any extension of time for payment), there is added to the amount of tax due five-tenths percent (0.5%) of the tax per month to a maximum of twenty-five percent (25%) unless it is shown that the failure to pay is due to reasonable cause and not due to willful neglect.

R.I. Gen. Laws § 44-1-7 provides in part as follows:

Interest on delinquent payments. (a) Whenever the full amount of any state tax or any portion or deficiency, as finally determined by the tax administrator, has not been paid on the date when it is due and payable, whether the time has been extended or not, there shall be added as part of the tax or portion or deficiency interest at the rate as determined in accordance with subsection (b) of this section, notwithstanding any general or specific statute to the contrary.

R.I. Gen. Laws § 44-1-10 provides as follows:

Compromise or abatement of uncollectible or excessive taxes. Whenever the tax administrator determines that any tax, excise, fee, penalty, interest, or other charge payable to the tax administrator is un-collectible, illegal, or excessive, in whole or in part, the tax administrator may, with the approval of the director of revenue, compromise, abate, or cancel the charge, as the circumstances may warrant.

C. Whether the Taxpayer's Request for Waiver of Penalty and/or Interest Should be Granted

The Taxpayer did not appear at hearing but the Taxpayer's request for a waiver of interest and penalty did not assert that either the penalty or the interest was improperly calculated. It was not disputed that interest and penalty was imposed pursuant to R.I. Gen. Laws § 44-23-16. R.I. Gen. Laws § 44-23-16 provides that interest as provided for in R.I. Gen. Laws § 44-1-7 shall be imposed if tax is not paid within the nine (9) month period. It also provides for an additional imposition of the amount due (penalty) for nonpayment of tax owed.

The Taxpayer requested a waiver of penalty and interest and cited to R.I. Gen. Laws § 44-23-16 arguing that the failure to pay the tax was due to reasonable cause and not due to willful neglect. R.I. Gen. Laws § 44-23-16 provides that interest is imposed pursuant to R.I. Gen. Laws § 44-1-7. It then provides that an additional assessment (penalty) shall be imposed that can be waived if failure to pay the tax was due to reasonable cause and not due to willful neglect. A review of R.I. Gen. Laws § 44-23-16 shows that the waiver provision is only applicable to that additional assessment (penalty). In the Taxpayer's letter, the Taxpayer asserted the estate relied on incorrect advice and believed an extension had been requested and did not understand that payment would be due even with an extension. However, no one appeared at hearing to argue or testify to this or show that this was a reasonable cause and not willful neglect in order to waive the penalty.

R.I. Gen. Laws § 44-1-10 provides that the Tax Administrator may determine that a tax, penalty, interest can be compromised or abated if it is uncollectible, illegal, or excessive. The penalty and interest were assessed by statute so are not illegal. The Taxpayer did not appear at hearing. No arguments were even made that the penalty and/or interest were uncollectible or excessive.

VI. FINDINGS OF FACT

1. On or about November 6, 2024, the Division issued a Notice of Pre-Hearing Conference and Appointment of Hearing Officer to the Taxpayer.

2. By letter dated January 3, 2025, the Taxpayer was notified that a full hearing would be held on February 4, 2025.

3. A hearing in this matter was held on February 4, 2025. 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 did not make a showing that a waiver should be granted for either the interest or penalty assessed.

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 § 44-23-1 *et seq.*, R.I. Gen. Laws § 44-1-1 *et seq.*, and the Hearing Regulation.

2. Pursuant to R.I. Gen. Laws § 44-23-16 and R.I. Gen. Laws § 44-1-7, interest was imposed at the Taxpayer's assessed estate tax.

3. Pursuant to R.I. Gen. Laws § 44-23-16, a penalty was imposed on the Taxpayer's assessed estate tax.

4. Pursuant to R.I. Gen. Laws § 44-23-16 and pursuant to R.I. Gen. Laws § 44-1-10, the Taxpayer made no showing that either the penalty or interest on the assessed estate should be waived.

VIII. RECOMMENDATION

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

Pursuant to R.I. Gen. Laws § 44-23-16 and R.I. Gen. Laws § 44-1-10, a waiver shall not be granted for the interest and penalty assessed on the estate tax owed by the Taxpayer. Therefore, the interest and penalty as assessed pursuant to R.I. Gen. Laws § 44-23-16 and R.I. Gen. Laws § 44-1-7 as set forth in Division's Exhibit 11 are owed. Payment shall be made by the 31st day from the date of execution of this decision.

Date: February 17, 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: 2/17/25



Neena S. Savage
Tax Administrator

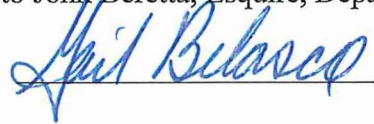
NOTICE OF APPELLATE RIGHTS

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 § 44-23-33 WHICH STATES AS FOLLOWS:

R.I. Gen. Laws § 44-23-33. 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 section 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 requirements pursuant to § 8-8-26.

CERTIFICATION

I hereby certify that on the 17th day of February, 2025 a copy of the above Decision and Notice of Appellate Rights were sent by first class mail, postage prepaid and by certified mail, return receipt requested to the Taxpayer's address on file with the Division and Taxpayer's representative's address on file with the Division and by electronic delivery to John Beretta, Esquire, Department of Revenue, One Capitol Hill, Providence, RI 02903.



April Belasco