

STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2025-17

Taxpayer.

information from Florida about the Car and found it had been registered and titled in Florida on May 13, 2020, and tax had been paid to Florida. Division's Exhibits One (1) (November 2, 2021 audit report); Two (2) (purchase contract showing purchase of Car in Massachusetts on May 6, 2020); Three (3) (Division's April 15, 2021 records request to Florida); and Four (4) (Taxpayer's application to Florida for title dated May 6, 2020 and issued by Florida on May 13, 2020).

The Auditor testified he determined the Taxpayer was a Rhode Island resident as he owned property since 1997 in Rhode Island, was registered to vote and voted in Rhode Island, and filed Rhode Island resident income tax from at least 2012 to present. Division's Exhibits Five (5) (Taxpayer's resident tax returns); Six (6) (Rhode Island property record); and Seven (7) (voting records). He testified that use taxes are imposed on motor vehicles stored and used in Rhode Island, and the Taxpayer did not qualify for the *bona fide* nonresident exemption from use tax. He testified that he sent his first notice to the Taxpayer on April 26, 2021 explaining that while he paid tax on the Car to Florida, he owed tax to Rhode Island as he was not a *bona fide* nonresident of Rhode Island. He testified he informed the Taxpayer that if he paid the Rhode Island tax, he could request a refund from Florida and asked for information whether the Car was driven directly from Massachusetts to Florida. He testified he did not receive a response to the first notice so sent a second notice with the same information to which he received no response. He testified he then sent a notice assessing the tax owed and statutory penalties and interest. He testified the interest was still accruing. Division's Exhibits Nine (9) (April 26, 2021 first notice); Ten (10) (second notice dated September 27, 2021); and 12 (notice of assessment dated November 11, 2021).

On cross-examination, the Auditor testified that he mailed both notices and the assessment to the same address and only received a response to the assessment. He testified that he does not have proof of mailing but that he mailed the documents.

The Taxpayer did not appear at the hearing, but his representative appeared. She did not dispute the Taxpayer was a Rhode Island resident. She provided proof the Taxpayer has owned property in Florida since 2017. Taxpayer's Exhibit One (1) (Florida property records).

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). See *Parkway Towers Associates v. Godfrey*, 688 A.2d 1289 (R.I. 1997). 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, 457 (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. *Defenders of Animals v. Dept. of Environmental Management*, 553 A.2d 541 (R.I. 1989). 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 § 44-18-20 provides in part as follows:

(a) An excise tax is imposed on the storage, use, or other consumption in this state of tangible personal property, including a motor vehicle, a boat, an airplane, or a trailer, purchased from any retailer at the rate of six percent (6%) of the sale price of the property.

(b) An excise tax is imposed on the storage, use, or other consumption in this state of a motor vehicle, a boat, an airplane, or a trailer purchased from other than a licensed motor vehicle dealer or other than a retailer of boats, airplanes, or trailers respectively, at the rate of six percent (6%) of the sale price of the motor vehicle, boat, airplane, or trailer.

(h) The use tax imposed under this section for the period commencing July 1, 1990 is at the rate of seven percent (7%).

R.I. Gen. Laws § 44-18-21 states in part as follows:

(a) Every person storing, using, or consuming in this state tangible personal property, including a motor vehicle, boat, airplane, or trailer, purchased from a retailer, and a motor vehicle, boat, airplane, or trailer, purchased from other than a licensed motor vehicle dealer or other than a retailer of boats, airplanes, or trailers respectively . . . is liable for the use tax. ***

R.I. Gen. Laws § 44-18-30 provides in part as follows:

Gross receipts exempt from sales and use taxes. — There are exempted from the taxes imposed by this chapter the following gross receipts:

(13) Motor vehicles sold to nonresidents.

(i) From the sale, subsequent to June 30, 1958, of a motor vehicle to a bona fide nonresident of this state who does not register the motor vehicle in this state, whether the sale or delivery of the motor vehicle is made in this state or at the place of residence of the nonresident.

R.I. Gen. Laws § 44-18-25 provides as follows:

Presumption that sale is for storage, use, or consumption — Resale certificate. — It is presumed that all gross receipts are subject to the sales tax, and that the use of all tangible personal property, or prewritten computer software delivered electronically or by load and leave, or services as defined in § 44-18-7.3, are subject to the use tax, and that all tangible personal property, or prewritten computer software delivered electronically or by load and leave, or services as defined in § 44-18-7.3, sold or in processing or intended for delivery or delivered in this state is sold or delivered for storage, use, or other consumption in this state, until the contrary is established to the satisfaction of the tax administrator. The burden of proving the contrary is upon the person who makes the sale and the purchaser, unless the person who makes the sale takes from the purchaser a certificate to the effect that the purchase was for resale. The certificate shall contain any information and be in the form that the tax administrator may require.

C. Arguments

The Division argued the Taxpayer is a Rhode Island resident, and there was evidence he brought the Car into Rhode Island, and no matter how brief that time may have been, taxes are still owed as the Car was used in Rhode Island.

The Taxpayer argued that he tried to obtain a refund of the Florida sales tax to no avail. He argued it was not fair he had pay sales tax on the Car twice especially as he bought the Car to drive his parents from Florida to Rhode Island during Covid. He argued that he offered to pay Rhode Island the difference between what Rhode Island assessed for tax and the tax he paid Florida.

D. The Taxpayer Owes Use Tax on the Car Purchase

Pursuant to R.I. Gen. Laws § 44-18-20, an excise tax is imposed on the “storage, use, or other consumption in this state” of personal property including the purchase of a motor vehicle. *Supra.* R.I. Gen. Laws § 44-18-30(13) provides an exemption if the purchaser of a motor vehicle is a *bona fide* nonresident of Rhode Island. The Taxpayer did not claim to be a *bona fide* nonresident, but rather agreed he was a resident of Rhode Island. Pursuant to R.I. Gen. Laws § 44-18-25, there is a presumption that the use of all tangible personal property is subject to the use tax. *Supra.*

The Car was purchased on May 6, 2020 in Massachusetts by the Taxpayer, and Florida issued a certificate of title and collected sales tax on May 13, 2020 for the Car. Division’s Exhibit Four (4). In the Taxpayer’s request for hearing, he wrote that he was unable to drive the Car out of New England at the time of purchase because of the highways being closed due to Covid. He wrote that he purchased the Car to pick up his parents in Florida as they could not get a flight home at that time. Division’s Exhibit 12.

Pursuant to R.I. Gen. Laws § 44-18-25, it is the Taxpayer’s burden to overcome the presumption of the taxability of the Car. The Car was purchased in Massachusetts. There was no testimony nor evidence presented at hearing that the Car was directly driven from Massachusetts to Florida. The Taxpayer told the Division that he could not drive the Car directly to Florida. The Taxpayer did not provide any proof that the Car did not come into Rhode Island. The Taxpayer did not argue the Car did not come into Rhode Island before being driven to Florida. The Taxpayer

did not dispute that the Car came into Rhode Island before being driven to Florida. Thus, the Car was used and stored in Rhode Island. The Taxpayer did not overcome the statutory presumption of the taxability of the Car as it came to Rhode Island. He is a resident of Rhode Island so cannot qualify as a *bona fide* nonresident.

The Taxpayer argued that it was not fair for him to pay tax again on the Car after he paid tax to Florida on the Car. The Division's letters to the Taxpayer in 2021 informed him that once he paid Rhode Island the tax owed, he should contact the State of Florida for a refund. There was no evidence whether the Taxpayer received the 2021 notices, but they were sent to the same address as the notice of assessment to which he did respond to by requesting a hearing.

The Taxpayer indicated to the Division by email in May, 2024 that when he asked Florida for a refund, he was informed that it would not refund the payment. The undersigned is not familiar with the specifics of Florida's refund law, but the Taxpayer was advised by the Division, such refund would usually be based on payment elsewhere, e.g. payment to Rhode Island. During that May, 2024 email exchange with the Division, the Taxpayer also stated he purchased the Car for his wife who owns property in Florida and has a valid Florida's driver's license which he stated was a reason Florida would not refund the tax paid. Division's Exhibit 16.

The Taxpayer may have had a good reason for buying the Car in Massachusetts whether for his wife in Florida or to pick up his parents in Florida during Covid but that does not mean that under the applicable statute, he does not owe the applicable tax as the Car was stored and used in Rhode Island. Furthermore, in terms of an equitable/fairness argument, 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).

Finally, the Division properly imposed interest on the use tax assessment pursuant to R.I. Gen. Laws § 44-19-11.¹ The Division also properly imposed a 10% penalty on the sales tax deficiency pursuant to R.I. Gen. Laws § 44-19-12.² The statute clearly provides that if a taxpayer does not pay a tax because of negligence or does not pay, a 10% penalty is imposed. That penalty is not discretionary because the statute provides that the penalty “is” to be added rather than “may be added.” See *Brier Mfg. Co. v. Norberg*, 377 A.2d 345 (R.I. 1977). See also R.I. Gen. Laws § 44-1-10.

VI. FINDINGS OF FACT

1. On November 13, 2024, the Division issued the Notice to the Taxpayer.
2. A hearing in this matter was held on June 11, 2025. The parties rested on the record.
3. The Taxpayer purchased the Car in 2020 in Massachusetts.
4. The Taxpayer is a Rhode Island resident.
5. The Car was used and stored in Rhode Island after it was purchased but before going to Florida.
6. The Car was titled and tax paid in Florida.
7. The facts as detailed in Section V are incorporated herein by reference.

¹ R.I. Gen. Laws § 44-19-11 states as follows:

Deficiency determinations – Interest. – If the tax administrator is not satisfied with the return or returns or the amount of tax paid to the tax administrator by any person, the administrator may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information in his or her possession or that may come into his or her possession. One or more deficiency determinations may be made of the amount due for one or for more than one month. The amount of the determination, exclusive of penalties, bears interest at the annual rate provided by § 44-1-7 from the fifteenth day (15th) after the close of the month for which the amount, or any portion of it, should have been paid until the date of payment.

² R.I. Gen. Laws § 44-19-12 states as follows:

Pecuniary penalties for deficiencies. – If any part of the deficiency for which a deficiency determination is made is due to negligence or intentional disregard of the provisions of this chapter and chapter 18 of this title, a penalty of ten percent (10%) of the amount of the determination is added to it. If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade the provisions of this chapter or chapter 18 of this title, a penalty of fifty percent (50%) of the amount of the determination is added to it.

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.* and R.I. Gen. Laws § 44-18-1 *et seq.*
2. The Taxpayer is not a *bona fide* nonresident of Rhode Island so pursuant to R.I. Gen. Laws § 44-18-30(13), he is not exempt from paying use tax upon the purchase of the Car.
3. Pursuant to R.I. Gen. Laws § 44-18-20 and R.I. Gen. Laws § 44-18-21, the Taxpayer owes use tax on the Car as it was stored and used in Rhode Island prior to being driven to Florida.

VIII. RECOMMENDATION

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

Pursuant to R.I. Gen. Laws § 44-18-20 and R.I. Gen. Laws § 44-18-21, the Division properly issued the notice of assessment for tax, penalty, and interest owed on the purchase of the Car in 2020 as the Taxpayer was a resident of Rhode Island in 2020, and the Car was used and stored in Rhode Island after its purchase so that the Taxpayer owes the assessment as set forth in Division's Exhibit 11.

Date: July 7, 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

Date: 7/24/25

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 THE FOLLOWING WHICH STATES AS FOLLOWS:

R.I. Gen. Laws § 44-19-18 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 24th day of July, 2025 a copy of the above Decision and Notice of Appellate Rights were sent by first class mail, postage prepaid to the Taxpayer's representative's address on file with the Division of Taxation and by electronic delivery to Matthew Williamson, Esquire, Department of Revenue, One Capitol Hill, Providence, RI 02908.

Leil Balasco