

STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2022-16

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

IN THE MATTER OF:

Taxpayer.

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**Case No.: 22-T-058
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 dated July 11, 2022 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 September 13, 2022. The Division was represented by counsel and the Taxpayers were *pro se*.¹ The parties 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 the 280-RICR-20-00-2 *Administrative Hearing Procedures* regulation.

III. ISSUE

Whether the Taxpayers’ claimed refund for the calendar years 2013, 2014, and/or 2015 should have been denied by the Division.

¹ The Taxpayers are a married couple and the husband represented them.

IV. MATERIAL FACTS AND TESTIMONY

(“Auditor”), Principal Tax Auditor, testified on behalf of the Division. He testified that the Taxpayers’ 2013 personal income tax was due April 15, 2014, and their 2014 personal income tax was due April 15, 2015, and their 2015 personal income tax was due April 15, 2016. He testified that the Taxpayers requested extensions for all three (3) years which meant that for each year, their return was due six (6) months after the initial due date. He testified that the first time that the Division received the Taxpayers’ returns for each of these three (3) years was on January 25, 2021. He testified that the Division’s computer records show for each year that an extension was given and then the next entry for each year is the receipt of that year’s return on January 25, 2021.

The Auditor testified that R.I. Gen. Laws § 44-30-87 provides for two (2) different periods to be eligible for a refund. He testified that under the statute, the Taxpayers were not eligible for a refund. He testified that the statutory three (3) year period for all three (3) years would be January 25, 2021 to January 25, 2024, but the Taxpayers have not made any payments during that time. He testified that none of the returns filed fell under the two (2) year period as the none of the returns were filed two (2) years from the date due for that year. He testified that the Division did not receive any correspondence from the Taxpayers regarding these returns prior to January 25, 2021 but he believed the Taxpayers’ husband contacted the Division in 2021 after he had received the public employee notice regarding overdue taxes. Division’s Exhibits One (1) (public employee noncompliance notice failure to file personal income tax dated January 12, 2021); Two (2) (Taxpayers’ 2013 personal income tax form received January 25, 2021); Three (3) (Taxpayers’ computer record for 2013); Four (4) (Taxpayers’ 2014 personal income tax form received January 25, 2021); Five (5) (Taxpayers’ computer record for 2014); Six (6) (Taxpayers’ 2015 personal

income tax form received January 25, 2021); and Seven (7) (Taxpayers' computer record for 2015).

The husband ("Husband") of the Taxpayers testified on their behalf. He testified that they have always filed their taxes. He testified that in 2013 his mother-in-law was very ill and died in May 2014, and there were difficulties in the other two (2) years, so they obtained extensions for those years. He testified that he believes that the 2013 return was filed on December 23, 2014, the 2014 return was filed on September 13, 2017, and the 2015 return was filed on September 14, 2017. He testified that he would have signed the returns electronically, and he trusted his certified public accountant filed the returns. He testified that he found out about their noncompliance after he received the public employee noncompliance letter in January, 2021 and immediately contacted his accountant and filed the returns. He testified that his accountant would have received the electronic filing receipts, and his accountant cannot locate the receipts as he changed his software. He testified that he should not be penalized for an electronic issue with software. Taxpayers' Exhibit One (1) (letter from accountant stating not able to obtain verification of filings because software has been changed). On cross-examination, the Husband testified that he does not know when his accountant changed the software, and he has no documentation to show that these returns were filed on the dates he believes they were. He testified that the returns are dated for when he believes they were originally filed, but they do not have his and his wife's signatures because they were electronically signed.²

² On rebuttal, the Auditor further testified that even if the 2014 return was filed on the date that Husband testified to, it still would have been out of time under the statute.

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. Arguments

The Division argued that there are no exemptions to the time period in the statute, and the Taxpayer have no documentation showing they filed their returns prior to January 25, 2021.

The Taxpayers argued they always pay their taxes, and in this situation, there was a mistake for which they are sorry, but they do not owe money but rather are asking for their money back.

D. 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),³ the Taxpayers' tax for 2013 was deemed paid on its due date of April 15, 2014, the tax for 2014 was deemed paid on its due date of April 15, 2015, and the tax for 2015 was deemed paid on its due date of April 15, 2016. R.I. Gen. Laws § 44-30-51⁴ states that Rhode Island personal income tax returns are to be filed by April 15 after the

³ 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.

⁴ 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.

close of the taxable year. R.I. Gen. Laws § 44-30-52⁵ states that tax shall be paid on or before the date fixed for filing without regard to an extension. R.I. Gen. Laws § 44-30-87(e)⁶ 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' 2013 tax was deemed paid on April 15, 2014. The Taxpayers' 2014 tax was deemed paid on April 15, 2015. The Taxpayers' 2015 tax was deemed paid on April 15, 2016. The Taxpayers were able to request a refund two (2) years from that date. 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 2013, 2014, and 2015 Rhode Island returns on January 25, 2021.
3. January 25, 2021 is past the two (2) year period from the dates that the taxes were deemed paid for 2013, 2014, and 2015 which is what is allowed for requesting a refund.

⁵ 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.

⁶ 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.

4. The statute also allows a claim for a refund to be filed within three (3) years from the date of the return being filed.

5. Thus, the Taxpayers may file a request for a refund within three (3) years of filing of the return.

6. The Taxpayers are within the three (3) year period to claim a refund for these three (3) years.

7. 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.”

8. The Taxpayers have not paid any tax from January 25, 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.

The Taxpayers argued that they were looking for a return of their money and should not be penalized for an electronic mistake. In other words, the Taxpayers were arguing that it was an issue of fairness that they receive their refund. Assuming that such an equitable/fairness argument would apply to these facts, equitable principles are not applicable to administrative proceedings. *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). Thus, there is no basis to argue that it is a matter of equity for the Taxpayers to receive their refund.

Furthermore, the statute does not provide for any exemptions to the time requirements. Rather the statute allows for a two (2) year period from the date the taxes were due to request a refund. The Taxpayers filed their returns after that two (2) year period for all three (3) years.⁷

E. Conclusion

The Taxpayers fell under the two (2) year period to request their refunds. They did not file their tax returns requesting refunds in that statutory time period. Based on the foregoing, the Taxpayers do not qualify for their claimed refunds pursuant to R.I. Gen. Laws § 44-30-87. See *Tax Decision* 2018-05 (June 25, 2018); and *Tax Decision*, 2007-10 (May 10, 2007).

VI. FINDINGS OF FACT

1. On or about July 11, 2022, the Division issued a Notice of Hearing and an Appointment of Hearing Officer to the Taxpayers. A hearing was held on September 13, 2022 with the parties resting on the record.

2. The Taxpayers' tax for 2013 was deemed paid on its due date of April 15, 2014. The Taxpayers' tax for 2014 was deemed paid on its due date of April 15, 2015. The Taxpayers' tax for 2015 was deemed paid on its due date of April 15, 2016.

3. The Taxpayers filed their 2013, 2014, and 2015 returns on January 21, 2021 and claimed refunds for overpayment of tax.

4. The Taxpayers filed for refunds more than two (2) years after their taxes were due for each of those three (3) years.

5. R.I. Gen. Laws § 44-30-87 does not contain any exemptions to its time requirements.

⁷ It is noted that the even if it could be proved that the Taxpayers' 2014 return was filed on September 13, 2017 that is beyond the two (2) year period as well.

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 their refunds claimed for 2013, 2014, and 2015.

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 their refunds claimed for 2013, 2014, and 2015, and the Division properly denied the Taxpayers' claim for the refunds.

Date: September 27, 2022


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: ~~9.27.22~~
10.6.22


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 6th day of October, 2022, a copy of the above Decision and Notice of Appellate Rights were sent by first class mail, postage prepaid and certified mail to the Taxpayers' address on file with the Division of Taxation and by electronic delivery to Amanda Valentino, Esquire, Department of Revenue, One Capitol Hill, Providence, Rhode Island, 02908.

