

STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2022-15

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

IN THE MATTER OF:

**Personal Income Tax
Case No.: 21-T-218**

Taxpayer.

:
:
:
:
:
:
:

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 October 18, 2021 and issued to the above-captioned taxpayers (individually, “Husband,” and “Wife,” and collectively “Taxpayers”) by the Division of Taxation (“Division”) in response to a request for hearing filed with the Division. A hearing was held on August 31, 2022. The Division was represented by counsel and the Taxpayers were *pro se*. 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 280-RICR-20-00-2 *Administrative Hearing Procedures* regulation.

III. ISSUE

Whether the Taxpayers’ claimed refund for the calendar year 2017 should have been denied by the Division.

IV. MATERIAL FACTS AND TESTIMONY

(“Auditor”), Principal Tax Auditor, testified on behalf of the Division. He testified that the Taxpayers filed their 2017 return on July 14, 2020, and they requested that their overpayment be carried forward. Division’s Exhibit One (1). He testified that under R.I. Gen. Laws § 44-30-87, the Taxpayers were not eligible for a refund. He testified that for the statutory three (3) year period of July 14, 2020 to July 14, 2023, the Taxpayers have not made any payments. He testified that the 2017 income tax was due on April 17, 2018, and two (2) years from then was April 17, 2020, and the Taxpayers did not file their 2017 return by that date. He testified that in April, 2020, the Division extended the due date for taxes due in 2020 and this included the 2019 personal income tax but not the 2017 personal income tax. He testified the Division issued advisories about the extensions including the 2019 income tax due date being extended to July 15, 2020. Taxpayers’ Exhibit Two (2). He testified that the statute does not contain any exemptions.

On cross-examination, the Auditor testified that in his experience at the Division, there has never been extensions given like during Covid19 in 2020. He testified that if the Taxpayers’ 2017 return had been received on or before April 15, 2020, they would have received a refund. He testified that a Division advisory included specific information about the 2019 personal income due date and gave examples for 2019 personal income tax. Taxpayers’ Exhibit Two (2) (April 6, 2020 advisory).¹

The Wife testified on behalf of Taxpayers. She testified that she has been a registered nurse for 40 years and was employed by a day provider in 2020 and due to the Covid19 pandemic, she had to take on new duties, and it was a very stressful situation. She testified that her Husband

¹ The Auditor also testified the Husband did not include his withholding in the 2017 return, so no request was made for that sum to be carried over. On cross-examination, he testified that if the Husband had filed an amended return including his withholding that would not have changed the refund analysis as the statutory provisions would still be the same.

always files their taxes. She testified she felt this issue turns on what would a reasonable prudent person believe when he or she heard in 2020 that the Division was allowing an extension of time for the filing of taxes. She testified they are asking for justice

The Husband testified on behalf of the Taxpayers. He testified that they are asking for the return of their funds; that this money is his Wife's property. He testified that the Division published information about the extension, and he did what was asked by filing their return by July 15, 2020, and the Division reneged on its promise. He testified that they relied on what was broadcast in the media about the extension of time for taxes to be paid.

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 the Taxpayers' 2017 tax was due on April 17, 2018, and they filed their 2017 tax return out-of-time for a refund pursuant to R.I. Gen. Laws § 44-30-87. It argued there are no exemptions to the time requirements in the statute. It argued that the Division's advisories about the 2020 extensions explained the deadline extensions which related to taxes due in 2020 and included 2019 personal income tax returns but not 2017 income tax returns.

For the Taxpayers, the Husband represented that if he had read the advisories that were the source of media reports, he would have seen they said 2019 but he relied on the media reports which resulting in him thinking they had an extension to July 15, 2020. The Taxpayers argued that they are looking for a break and what would a reasonable person expect.

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),² the Taxpayers' tax for 2017 was deemed paid on its due date: April 18, 2018.³ R.I. Gen. Laws § 44-30-51⁴ 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 § 44-30-52⁵ 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.

² 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.

³ The Auditor testified that 2017 personal income tax returns were due on April 17, 2018 rather than April 15. Taxpayers' Exhibit One (1) (Division's 2018 filing advisory noting that the personal income tax due date would be by law April 17, 2018 rather than April 15, 2018 because of the weekend and Emancipation Day in Washington, D.C.).

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.

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.

ii. Applying Rhode Island Law to the Taxpayer's Refund Claim

Thus, applying the State statute results in the following timeline:

1. The Taxpayers' 2017 tax was deemed paid on April 17, 2018. 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 2017 Rhode Island return on July 14, 2020.

3. July 14, 2020 is past the two (2) year period from the date the taxes were deemed paid that is allowed for requesting a refund.

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.

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 July 14, 2020 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.

iii. The Taxpayers' Arguments

The Taxpayers argued that the refund was the Wife's money, and they were looking for justice, and they relied on media reports about the extensions given for tax filings due to Covid19.

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.

In addition, the Taxpayers brought up the issue of a reasonably prudent person and what would that person believe about the Division's extensions for taxes in 2020. There is no basis in the personal income tax statute to ground the length of time allowed for the filing of a tax return in order to receive a refund by what a reasonable prudent person would think. However, it is noted that 2017 personal income tax returns were not due in 2020 but were due by April 17, 2018. The April 17, 2020 date is the two (2) year period allowed after the 2017 return was due in 2018 for a taxpayer to receive a refund. The Covid19 pandemic started in March, 2020 in the United States and 2019 personal income tax returns were due by April 15, 2020. The April, 2020 advisory issued by the Division addressed extensions being given for tax and filing deadlines of April 15, 2020. Taxpayers' Exhibit Two (2). Those April 15, 2020 deadlines included – as detailed in the advisory – 2019 personal income tax returns.

While the Husband indicated that he relied on media reports regarding the 2020 extensions rather than the advisories, such reliance is not pertinent to the issue. The statute provides a two (2) year period from when the personal income tax was deemed paid and due to request a refund. For 2017, personal income tax was deemed due and paid on April 17, 2018. The Taxpayers did not file within the two (2) year period following April 17, 2018. The extension in 2020 for the filing of

personal income tax returns was for income tax returns due in 2020 which included income tax returns for the prior calendar year of 2019.

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 (and the Taxpayers' taxes were due approximately two (2) years prior to the start of the Covid19 pandemic).⁷ The Taxpayers filed their return after that two (2) year period.

E. Conclusion

The Taxpayers fell under the two (2) year period to request a refund. They did not file a tax return requesting a refund in that statutory time period. Based on the foregoing, the Taxpayers do not qualify for their claimed refund 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 October 18, 2021, the Division issued a Notice of Hearing and an Appointment of Hearing Officer to the Taxpayers. A hearing was held on August 31, 2022 with the parties resting on the record.
2. The Taxpayers' 2017 tax payment was due by April 17, 2018 and was deemed paid that day. The due date for 2017 personal income tax returns was not extended to July 15, 2020.
3. The Taxpayers filed their 2017 return on July 14, 2020 and claimed a refund for overpayment of tax.
4. The Taxpayers filed for a refund more than two (2) years after their taxes were due.

⁷ Indeed, the Husband was actually notified by the Division in 2019 that he had not filed a 2017 personal income tax return. Division's Exhibit Three (3) (notice dated January 1, 2019).

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

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 refund claimed for 2017.

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 refund claimed for 2017, and the Division properly denied the Taxpayers' claim for the refund.

Date: September 14, 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: 9/16/2022


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 16th day of September, 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.


