

STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2021-01

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

IN THE MATTER OF:	:	
	:	
	:	Case No.: 20-T-015
	:	personal income tax
	:	
Taxpayer.	:	
	:	

CORRECTED 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 May 27, 2020 and issued to the above-captioned taxpayer (“Taxpayer”) by the Division of Taxation (“Division”) in response to a request for hearing. A pre-hearing conference was scheduled for July 8, 2020 at which time the Taxpayer did not appear. See Division’s Exhibits L (Notice) and F (request for hearing). The matter was then scheduled for hearing on September 29, 2020 by letter dated August 27, 2020.* Division’s Exhibit M. The Taxpayer did not appear; however, the Taxpayer requested that this matter be continued in order to see if the matter could be resolved. As the parties were unable to reach an agreement, the hearing was rescheduled to March 29, 2021 at which time the Taxpayer did not appear. Division’s Exhibit O. Since the Taxpayer was adequately noticed of hearing,¹ a hearing was held before the undersigned on March 29, 2021. Pursuant to Section 2.7(G)(3) of the

*Dates corrected

¹ A letter dated March 10, 2021 was forwarded to the Taxpayer informing the Taxpayer of the March 29, 2021 hearing date and enclosing a copy of the Notice as well as an email notification of the March 29, 2021 hearing date. The letter provided information for the dial in number as well as a telephone number for the Taxpayer to contact the Division. Division’s Exhibit O. _____, Principal Revenue Agent, testified that the March 10, 2021 letter was sent to the Taxpayer’s most recent address on record with the Division. Said letter was sent by first class and certified mail. The Taxpayer received a copy of said letter. Division’s Exhibit O (letter with United States Post Office tracking sheet showing certified mail was delivered). The hearing was held by telephone due to the COVID19 pandemic.

280-RICR-20-00-2 *Administrative Hearing Procedures* (“Hearing Regulation”), a default judgment may be entered against the party not appearing at hearing.² The Division was represented by counsel who 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.*, the Hearing Regulation, and 220-RICR-50-10-2, Department of Administration’s *Rules of Procedure for Administrative Hearings*.

III. ISSUE

Whether the Taxpayer owes Rhode Island income tax for 2016.

IV. MATERIAL FACTS AND TESTIMONY

Principal Revenue Agent, testified on behalf of the Division. He testified the Taxpayer was assessed the amount of tax that she indicated she owed on her Rhode Island 2016 personal income tax return and which she did not pay. Division’s Exhibit A (Taxpayer’s 2016 personal income tax return). He testified the Taxpayer was assessed interest and a late payment penalty but not a late filing penalty as the Taxpayer filed her return.

Based on the Notice and exhibits at hearing, it was undisputed at hearing as follows: On March 3, 2017, the Taxpayer filed her 2016 Rhode Island income tax return electronically with the State of Rhode Island and while she prepaid some of her income tax via withholding, she still owed income tax. A review of the taxpayer’s income tax return for 2016 shows that on line 13 of the return, the Taxpayer indicated she owed tax in the amount of _____ and on line 14 she indicated that her withholding had been in the amount of _____ Division’s Exhibit A. The difference of those two (2) amounts (tax owed minus withholding) is _____ which is the amount of _____

² The Hearing Regulation provides that a defaulted party be given notice of the default by mail and said party may request reinstatement of the matter pursuant to a motion for reconsideration as set forth in the Hearing Regulation.

tax owed the Division assessed the Taxpayer. Division's Exhibits D (Notice of Deficiency dated May 9, 2019); and E (Notice of Assessment dated June 13, 2019). By letter dated June 20, 2020, the Taxpayer requested an administrative hearing. Division's Exhibit F. The Division updated its calculation of the amount of tax owed by the Taxpayer and the interest and late penalty as of March 29, 2021. Division's Exhibit N (updated calculations as of March 29, 2021).

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).

B. **Whether the Taxpayer Owes Income Tax**

R.I. Gen. Laws § 44-30-1 *et seq.* provides for the payment of personal income tax. Pursuant to R.I. Gen. Laws § 44-30-51, a taxpayer is required to file a Rhode Island tax return if the taxpayer was required to file a federal income tax return or had Rhode Island income. It was undisputed at hearing that the Taxpayer was a Rhode Island resident in 2016 and received income in 2016 and owed income tax in Rhode Island in 2016. The Taxpayer filed a federal income tax return in 2016. Division's Exhibit B. The Taxpayer filed a Rhode Island personal income tax return for 2016 indicating that she owed in tax. Division's Exhibit A.

Therefore, the Division properly issued the Taxpayer a notice of assessment for the income tax owed for 2016. Pursuant to R.I. Gen. Laws § 44-30-84, the Division imposed interest for the late payment of the tax owed. Pursuant to R.I. Gen. Laws § 44-30-85, the Division imposed a late payment penalty for the late payment of the tax owed.

VI. FINDINGS OF FACT

1. On or about May 27, 2020, the Division issued a Notice of Pre-Hearing Conference and Appointment of Hearing Officer to the Taxpayer.

2. A pre-hearing conference was held on July 8, 2020 at which time the Taxpayer did not appear. A hearing was scheduled for September 29, 2020 at which time the Taxpayer did not appear. The September hearing was continued to allow the parties a chance to try to resolve this matter. The parties were not able to resolve this matter.

3. A hearing was scheduled for March 29, 2021 at which time the Taxpayer did not appear. As the Taxpayer was adequately notified of hearing, the hearing was held on March 29, 2021. The Division was represented by counsel who rested on the record.

4. The Taxpayer is in default for not appearing at the hearing.

5. The facts contained in Sections IV and V are reincorporated by reference herein.

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 § 44-30-1 *et seq.*

2. Pursuant to R.I. Gen. Laws § 44-30-1 *et seq.*, the Taxpayer owes the assessed income tax, interest, and penalty for 2016.

VIII. RECOMMENDATION

Based on the above analysis, the Hearing Officer recommends as follows: The Taxpayer owes the assessed income tax, interest, and late payment penalty for 2016 as calculated in Division's Exhibit O and subject to any further updates.

Date: April 7, 2021

/s/ Catherine R. Warren

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: 4/7/2021

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 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 8th day of April, 2021 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 address on file with the Division and by electronic delivery to Lenore Montanaro, Esquire, Department of Revenue, One Capitol Hill, Providence, RI 02903.


