STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2017-05

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

IN THE MATTER OF:	:	**Personal Income Tax**
	:	**Case No.: 17-T-008**
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 February 16, 2017 and issued to the above-captioned taxpayer ("Taxpayer") by the Division of Taxation ("Division") in response to a request for hearing filed with the Division. A hearing was held on March 22, 2017. The Taxpayer did not appear. As the Taxpayer had been adequately notified of the hearing,[1] the hearing went forward. The Division was represented by counsel and 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 § 44-33-1 *et seq.*, R.I. Gen. Laws § 44-1-1 *et seq.*, *Division of Taxation Administrative Hearing Procedures Regulation AHP 97-0,* and the *Division of Legal Services Regulation 1 Rules of Procedure for Administrative Hearings.*

[1] The Notice of Hearing and Appointment of Hearing Officer was sent by first class and certified mail to the Taxpayer to the Taxpayer's address on record with the Division.

III. ISSUE

Whether pursuant to R.I. Gen. Laws § 44-33-1 *et seq*. the Taxpayer is eligible for the property tax relief for the calendar year 2015.

IV. MATERIAL FACTS AND TESTIMONY

Principal Revenue Agent, testified on behalf of the Division. He testified that in order to qualify for a property tax credit, there is a statutory household income limit of up to $30,000 and other requirements and there is a statutory formula for determining the tax credit. He testified that the Taxpayer's initial 2015 return indicated that her income was less than her rent. See Division's Exhibits A, B, and C. He testified that the Taxpayer met with the Division and it was determined that the Taxpayer's household income was higher than originally calculated, but was under the $30,000 household income. He testified that based on the statutory formula, the Taxpayer was not eligible for the credit. See Division's Exhibit E (revised 1040H with the pertinent calculations on lines 8 through 14).

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).

B. Relevant Statutes

R.I. Gen. Laws § 44-33-1 *et seq.* provides for a property tax relief credit for eligible claimants. R.I. Gen. Laws § 44-33-9 limits to the availability of said credit to households with income of up to $30,000 for the taxable year. R.I. Gen. Laws § 44-33-9 provides in part as follows:

> Computation of credit. – The amount of any claim made pursuant to this chapter shall be determined as follows:
>
> (1) For any taxable year, a claimant is entitled to a credit against his or her tax liability equal to the amount by which the property taxes accrued or rent constituting property taxes accrued upon the claimant's homestead for the taxable year exceeds a certain percentage of the claimant's total household income for that taxable year, which percentage is based upon income level and household size. The credit shall be computed in accordance with the following table:

Income Range	1 Person	2 or More Persons
less than $6000	3%	3%
$6001-9000	4%	4%
$9001-12000	5%	5%
$12001-15000	6%	5%
$15001-30000	6%	6%

C. Discussion

The evidence was undisputed that while the Taxpayer met the statutory income threshold, she was not eligible for the tax credit once the calculations were made based on the amount of income and household size. Therefore, pursuant to R.I. Gen. Laws § 44-33-1 *et seq.*, the Taxpayer does not qualify for the said credit for calendar year 2015. Therefore, the Division properly denied the Taxpayer's application for said credit for calendar year 2015.

VI. FINDINGS OF FACT

1. On or about February 16, 2017, the Division issued a Notice of Hearing and an Appointment of Hearing Officer to the Taxpayer.

2. A hearing was held on March 22, 2017. The Taxpayer did not appear. As the Taxpayer was adequately noticed of the hearing, a hearing was held.

3. The Taxpayer is in default for failing to appear at the hearing.

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 § 44-33-1 *et seq*. and R.I. Gen. Laws § 44-1-1 *et seq*.

2. Pursuant to R.I. Gen. Laws § 44-33-1 *et seq*., the Taxpayer is not eligible for said credit for 2015.

VIII. RECOMMENDATION

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

Pursuant to R.I. Gen. Laws § 44-33-1 *et seq*., the Taxpayer was not eligible for the property tax relief credit for calendar year 2015 and the Division properly denied her claim for said credit.

Date: April 3, 2017

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:

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 § 44-33-15 WHICH STATES AS FOLLOWS:

R.I. Gen. Laws § 44-33-15 provides as follows:

Appeals. – Any person aggrieved by the decision of the tax administrator denying in whole or in part relief claimed under this chapter, except when the denial is based upon late filing of claim for relief or is based upon a redetermination of rent constituting property taxes accrued as not at arms length, may appeal the decision of the tax administrator to the sixth division of the district court by filing a petition within thirty (30) days after the denial.

CERTIFICATION

I hereby certify that on the 2nd day of May, 2017, 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 of Taxation and by hand delivery to Matthew Cate, Esquire, Department of Revenue, One Capitol Hill, Providence, Rhode Island, 02908.

April Balasco