STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2020-06

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

IN THE MATTER OF:	:	**Case No.: 20-T-004**
	:	**personal income tax**
Taxpayers.	:	

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 February 7, 2020 and issued to the above-captioned taxpayers ("Taxpayers") by the Division of Taxation ("Division") in response to a request for hearing. A hearing was scheduled for March 10, 2020 at which time the Taxpayers did not appear. Since the Taxpayers were adequately noticed of hearing,[1] a hearing was held before the undersigned on March 10, 2020. Pursuant to Section 2.7(G)(3) of the 280-RICR-20-00-2 *Administrative Hearing Procedures* ("Hearing Regulation"), a default judgment may be entered against the party

[1] The Notice scheduled a prehearing conference for March 10, 2020 which indicated that a default could be entered against the Taxpayers if they did not appear. The Notice was sent by first class and certified mail. The Taxpayers received a copy of the Notice. Division's Exhibit One (1) (Notice with United States Post Office tracking sheet showing certified mail was delivered). Furthermore, each taxpayer (married couple) separately returned the Notice and the envelope in which it was delivered to the Division. The wife and the husband each wrote as follows on the envelope: "Return to Sender [.] We decline this offer to contract [.] No contract [.] No consent [.] No liability [.]" and "Not subject to a hearing, fees or penalties without a contract." On the Notice, it was handwritten "All rights reserved [.] We do not consent to this procedure [.] We do not accept this offer to contract [.] We do not recognize you [.] We do not understand your intent [.] We accept no liability." Division's Exhibits Two (2) and Three (3) (wife and husband respectively).

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 Taxpayers owed Rhode Island income tax for 2018.

IV. MATERIAL FACTS AND TESTIMONY

Principal Revenue Agent, testified on behalf of the Division. He testified that the Taxpayers filed a joint personal income tax return in 2019 with the State of Rhode Island for the 2018 tax year based on their federal adjusted gross income. He testified that based on this return, the Taxpayers owed income tax so a Notice of Assessment for the taxes owed was issued by the Division to the Taxpayers. He testified that the Taxpayers replied that they did not recognize the Division's jurisdiction. He testified that this was also the Taxpayers' reply to the Notice. Division's Exhibits Two (2) and Three (3) (see footnote one (1)). He testified the Taxpayers owed the amount indicated in the updated summary of account in Division's Exhibit Four (4).

Based on the Notice, it was undisputed at hearing as follows: On February 22, 2019, the Taxpayers filed their 2018 Rhode Island income tax return with the State of Rhode Island and while they prepaid some of their income tax, they still owed income tax.

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[2] The Notice informed the Taxpayers that failure to appear at hearing could lead to a default being entered. 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.

On March 28, 2019, the Division issued a Notice of Deficiency and then on May 9, 2019, the Division issued a Notice of Assessment for the income tax owed by the Taxpayers. On May 29, 2019, the Taxpayers filed amended Rhode Island resident personal income tax returns changing their status from married joint filing to married filing separately and changed their respective adjusted gross incomes to zero. By separate letters dated June 23, 2018, each of the Taxpayers filed with the Division a letter with an attached affidavit requesting a conditional discharge of all assessed Rhode Island personal income tax. The Taxpayers both claimed that they did not receive any taxable income in Rhode Island for the tax year 2018 and relied on federal and constitutional grounds to request a discharge. The Division forwarded this matter to administrative hearing based on the Taxpayers' legal and constitutional claims.

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. Whether the Taxpayers Owe Income Tax

R.I. Gen. Laws § 44-30-1 *et seq.* provides for the payment of personal income tax. It was undisputed at hearing that the Taxpayers were Rhode Island residents in 2018 and received income in 2018 and owed income tax in Rhode Island in 2018. The Taxpayers initially filed a Rhode Island income tax return indicating that they owed income tax but then filed amended separate income tax returns indicating their adjusted gross income was zero. The Taxpayers did not appear at hearing to explain what they meant by their notations on the envelope and Notice about contracts, offer to contract, and consent. The Taxpayers also included with their handwritten notes on the envelope and Notice, an apparent table of contents from 26 U.S.C subtitle F regarding enforcement regulations. The Taxpayers wrote on this table of contents that these federal regulations apply to "ATF" and "not 26 USC subtitle A income tax." Division's Exhibits Two (2) and Three (3). It is unclear how this relates to the Rhode Island income tax statute which provides that the amount of income tax owed is calculated using a taxpayers's federal gross adjusted income and provides for the Division to collect state 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. Pursuant to R.I. Gen. Laws § 44-30-6, the term "income" as used in the federal income tax law is deemed to be the same in Rhode Island. The Taxpayers initially filed a return with Rhode Island showing they owed income tax, but then filed amended returns stating they had no income. Income is very broadly defined and includes wages. *Commissioner of Internal Revenue v. Kowalski*, 434 U.S. 77, 82-83 (U.S. 1977); *Commissioner of Internal Revenue v. Glenshaw Glass Co.*, 348 U.S. 426 (1955); and *Coleman v. Commissioner of Internal Revenue*, 791 F.2d 68 (7th Cir. 1986). The Taxpayers

have provided no evidence that they did not earn any Rhode Island income or that they do not owe income tax in Rhode Island or that they are somehow exempt from paying income tax to Rhode Island.

Therefore, the Division properly issued the Taxpayer a Notice of Assessment for the income tax owed for 2018. Pursuant to R.I. Gen. Laws § 44-30-84, the Division imposed interest on 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 February 7, 2020, the Division issued a Notice of Pre-Hearing Conference and Appointment of Hearing Officer to the Taxpayers.

2. A hearing in this matter was held on March 10, 2020. The Taxpayers received notice of hearing but did not appear at hearing.

3. The Taxpayers are in default for not appearing 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 § 44-1-1 *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 Taxpayers owe the assessed income tax, interest, and penalty for 2018.

VIII. RECOMMENDATION

Based on the above analysis, the Hearing Officer recommends as follows: The Taxpayers owe the assessed income tax, interest, and late payment penalty for 2018. See Division's Exhibit Four (4).

/s/ Catherine R. Warren

Date: April 22, 2020

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: 5/1/2020

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 1st day of ~~April~~ May, 2020 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 Taxpayers' address on file with the Division and by electronic delivery to Michael Brady, Esquire, Department of Revenue, One Capitol Hill, Providence, RI 02903.

Lori Belasco