

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2015-22

**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.: 15-T-0078**

Taxpayer.

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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 16, 2015 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 August 26, 2015. 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 (“Credit”) for the calendar year 2014.

IV. MATERIAL FACTS AND TESTIMONY

Principal Revenue Agent, testified on behalf of the Division. He testified that on or about January 18, 2015 the Taxpayer applied for Credit for the calendar year 2014. He testified that the Taxpayer met the statutory income requirement for the Credit since her income was less than . See Division’s Exhibits A (application) and B (Taxpayer’s Form SSA-1099 showing social security benefits for 2014). He testified that the Division obtained a copy of the Taxpayer’s lease with her landlord and determined that the Taxpayer did not pay the entire rent for her apartment, but rather HUD paid a portion of her rent. He testified that the Taxpayer represented on her Credit application that her rent payments were the total rent charged instead of the portion she was paying. He testified that pursuant to the pertinent statute, the Division recalculated the Taxpayer’s claim for Credit based on what she actually paid in rent rather than the total rent charged. He testified that based on that calculation, the Taxpayer was not due any credit and her Credit application was denied by letter dated February 9, 2015. See Division’s Exhibits C (lease); D (Division’s calculations); and (F) (Division’s mainframe records).

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 Statutes

R.I. Gen. Laws § 44-33-1 *et seq.* provides for property tax relief (said Credit) for eligible claimants. R.I. Gen. Laws § 44-33-3 states in part as follows:

Definitions. – As used in this chapter:

(3) "Gross rent" means rental paid in cash or its equivalent solely for the right of occupancy of a homestead, exclusive of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as a part of the rental agreement. If the landlord and tenant have not dealt with each other at arm's length, and the tax administrator is satisfied that the gross rent charged was excessive, he or she may adjust the gross rent to a reasonable amount for purposes of this chapter. "Gross rent" includes the rental of space paid to a landlord for parking of a mobile home, or docking or mooring a houseboat, exclusive of any charges for utilities, services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the rental. Twenty percent (20%) of the annual gross rental plus the space rental fees paid during the year are the annual "property taxes accrued."

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

\$12001-15000	6%	5%

(2) The maximum amount of the credit granted under this chapter will be as follows:

Year Credit Maximum

Commencing on July 2006 \$300.00

Commencing July 2007 and subsequent years, the credit shall be increased, at a minimum, to the maximum amount to the nearest five dollars (\$5.00) increment within the allocation of five one-hundredths of one percent (0.05%) of net terminal income derived from video lottery games up to a maximum of five million dollars (\$5,000,000) until a maximum credit of five hundred dollars (\$500) is obtained pursuant to the provisions of § 42-61-15. In no event shall the exemption in any fiscal year be less than the prior fiscal year.

C. Discussion

Based on the information received that the Taxpayer paid less in rent than represented on her application for the Credit, the Division recalculated the Taxpayer's claimed Credit based on the provisions of R.I. Gen. Laws § 44-33-9 and determined that the Taxpayer was not eligible for a Credit. Therefore, pursuant to R.I. Gen. Laws § 44-33-1 *et seq.*, the Taxpayer does not qualify for the Credit for calendar year 2014. Therefore, the Division properly denied the Taxpayer's application for Credit for calendar year 2014.

VI. FINDINGS OF FACT

1. On or about July 16, 2015, the Division issued a Notice of Hearing and an Appointment of Hearing Officer to the Taxpayer.
2. A hearing was held on August 26, 2015. The Taxpayer did not appear. As the Taxpayer was adequately noticed of the hearing, a hearing was held.
3. The Taxpayer paid a portion of the rent that she was charged for 2014 and did not pay the total rent charged.

VII. CONCLUSIONS OF LAW

Based on the testimony and facts presented:

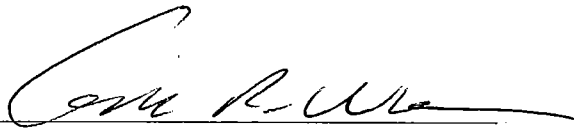
1. The Division has jurisdiction over this matter pursuant to R.I. Gen. Laws § 44-33-1 *et seq.* and R.I. Gen. Laws § 44-1-1 *et seq.*
2. Pursuant to R.I. Gen. Laws § 44-33-1 *et seq.*, the Taxpayer is not eligible for the Credit for 2014.

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 2014.

Date: September 4, 2015

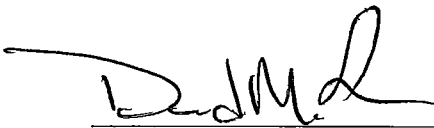

Catherine R. Warren
Hearing Officer

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: 9/17/15


David Sullivan
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 18th day of September, 2015, a copy of the above Decision and Notice of Appellate Rights were sent by first class mail, postage prepaid and return receipt requested to the Taxpayer's address on file with the Division of Taxation and by hand delivery to Sharon Garner, Esquire, Department of Revenue, One Capitol Hill, Providence, Rhode Island, 02908.

