

STATE OF RHODE ISLAND

DIVISION OF TAXATION

ADMINISTRATIVE HEARING

FINAL DECISION AND ORDER

#2025-08

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

IN THE MATTER OF:

**24-T-042
sales and use tax refund**

Taxpayer.

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 dated October 21, 2024 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 February 4, 2025. The Division was represented by counsel, and the Taxpayer was *pro se*. The parties rested on the record.

II. JURISDICTION

The Division has jurisdiction over this matter pursuant to R.I. Gen. Laws § 44-1-1 *et seq.*, R.I. Gen. Laws § 44-18-1 *et seq.*, and 280-RICR-20-00-2 *Administrative Hearing Procedures*.

III. ISSUE

Whether the Taxpayer’s claim for a sales and use tax refund for his tax payment on a car that he purchased should have been denied by the Division.

IV. MATERIAL FACTS AND TESTIMONY

Tax Auditor I (“Auditor”), testified on the Division’s behalf. He testified the Taxpayer bought a 1981 Corvette (“Car”) for on June 24, 2023. He testified this was a casual sale as defined by statute. He testified that for a casual sale, tax is calculated on the retail value of the vehicle and a nationally recognized guide to car values will be used to determine the retail value. He testified the Division of Motor Vehicles (“DMV”) determined the value of the Car to be based on the *Cars of Particular Interest* (“CPI”) guide to values. He testified that CPI was used as the Car was of particular interest. He testified he confirmed that DMV used the CPI rather than another guide. He testified the Taxpayer paid a tax of on that value and then requested a partial refund of of the sales tax paid. Division’s Exhibits One (1) (certificate of title and title assignment by seller dated July 10, 2023); Two (2) (seller’s receipt for tax paid on Car dated June 6, 2024); Six (6) (use tax return dated July 14, 2023); and Seven (7) (Taxpayer’s form C-REF-SU claim for refund received August 4, 2023).

The Auditor testified that in response to the Taxpayer’s request for refund, he forwarded a letter requesting more information and informing the Taxpayer the required appraisal had not been submitted and estimates could not be accepted, and the delivery fee was not part of the value. He testified the Taxpayer filed a new claim for refund. Division’s Exhibits Eight (8) (Division’s December 14, 2023 letter requesting more information from the Taxpayer); and Nine (9) (Taxpayer’s second form C-REF-SU claim for refund dated January 10, 2024).

The Auditor testified the Division did not grant the entire refund requested but granted a partial refund. He testified the Respondent submitted a valuation from a licensed automobile body shop rather than an appraisal from a licensed motor vehicle dealer. He testified the Taxpayer provided a value by a licensed motor vehicle dealer for a trade in value rather than an appraisal of

the Car. He testified the Taxpayer submitted the insurance policy showing coverage of the Car for but that is not an appraisal so cannot be accepted. He testified the Taxpayer claimed high mileage, but the CPI already included mileage in its evaluation so high mileage was not applicable. He testified the invoices submitted for work on the Car were from prior to the Car's purchase so could not be accepted. He testified a partial refund of of the requested was granted due to the submission of tire invoices. Division's Exhibits Ten (10) (East Coast Collision automobile body shop license); 11 (East Coast Collision's repair invoice); 12 (tire receipts dated June 29, 2023 used for partial refund); 13 (receipts dated June 12, 2023 prior to sale); 14 (August 11, 2023 mileage statement); 15 (licensed motor vehicle dealer's trade in value statement); 16 (insurance declaration showing coverage for Car); and 17 (January 16, 2024 letter to Taxpayer regarding partial refund granted).

On cross-examination, the Auditor testified he confirmed the CPI was used for the Car's valuation, and its value was lower than the other guide that could have been used (JD Power). He testified the licensed dealer did not perform an appraisal but just provided a trade in value. He testified the insurance company information was not an appraisal but just policy coverage. He testified that CPI's value already included mileage so high mileage was not applicable.

The Taxpayer testified on his behalf. He provided a video of the Car that showed the mileage, the inside of the Car, and the engine that he testified to. Taxpayer's Exhibit One (1). He testified that he paid for the Car and was willing to pay tax on a value which was why he requested of the paid. He testified that he would also be willing to pay the tax on which represents the insurance policy amount. He testified the licensed automobile body shop that he used specializes in antique cars. He testified that he submitted enough paperwork to show the Car's value, and one can see the Car's value from the video.

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 § 44-18-20 provides in part as follows:

Use tax imposed.

(b) An excise tax is imposed on the storage, use, or other consumption in this state of a motor vehicle, a boat, an airplane, or a trailer purchased from other than a licensed motor vehicle dealer or other than a retailer of boats, airplanes, or trailers respectively, at the rate of six percent (6%) of the sale price of the motor vehicle, boat, airplane, or trailer.

(e) The term “casual” means a sale made by a person other than a retailer, provided, that in the case of a sale of a motor vehicle, the term means a sale made by a person other than a licensed motor vehicle dealer or an auctioneer at an auction sale. In no case is the tax imposed under the provisions of subsections (a) and (b) of this section on the storage, use, or other consumption in this state of a used motor vehicle less than the product obtained by multiplying the amount of the retail dollar value at the time of

purchase of the motor vehicle by the applicable tax rate; provided, that where the amount of the sale price exceeds the amount of the retail dollar value, the tax is based on the sale price. The tax administrator shall use as his or her guide the retail dollar value as shown in the current issue of any nationally recognized, used-vehicle guide for appraisal purposes in this state. On request within thirty (30) days by the taxpayer after payment of the tax, if the tax administrator determines that the retail dollar value as stated in this subsection is inequitable or unreasonable, he or she shall, after affording the taxpayer reasonable opportunity to be heard, re-determine the tax.

(h) The use tax imposed under this section for the period commencing July 1, 1990, is at the rate of seven percent (7%).

C. Arguments

The Division argued no appraisal from a licensed motor vehicle dealer was submitted, and there was no documentation from the Taxpayer showing there should be change in the value except for the partial refund already granted. It argued there was no evidence that any delay prejudiced the Taxpayer, and the same decision would have been made at any time.

The Taxpayer argued that the delay was too long, and he feels he deserves what he asked for, and he was overcharged on the Car's value.

D. Whether the Division Properly Denied the Refund Request

a. The Refund Request

Pursuant to R.I. Gen. Laws § 44-18-20(e), the Taxpayer had 30 days from the payment of the tax to request a refund. He paid the tax on the Car on July 14, 2023. Pursuant to R.I. Gen. Laws § 44-18-20(e), a current issue of any nationally recognized, used-vehicle guide for appraisal purposes in this state is to be used to value a car purchased by a casual sale. DMV assessed the tax based on the Car's retail value in the CPI. The Taxpayer submitted his claim for refund on August 10, 2023 so within the 30 days. On December 14, 2023, the Division requested further information from the Taxpayer to be provided within 30 days. The Taxpayer replied with more information on January 10, 2024. On January 16, 2024, the Division notified the Taxpayer that a

partial refund would be granted. There was no evidence that the Taxpayer never received his partial refund check.

Pursuant to R.I. Gen. Laws § 44-18-20(e), the Division shall review the refund request to determine if the tax was inequitable or unreasonable and allow the taxpayer to be heard. The process for the Division's review is set forth in the refund request form which states what is required for the Division to review the refund appeal. Division's Exhibits Seven (7) and Nine (9) (refund form). As part of that process, the Division requires a refund request to include documentation which can include an appraisal to support a claim that a vehicle's book value was too high. The appraisal is to be by a licensed motor vehicle dealer. Such a process allows for a taxpayer to submit an independent verification of the value of a vehicle.

The Taxpayer did not submit an appraisal from a licensed motor vehicle dealer. He submitted information from an autobody shop licensee. He submitted a trade in value from a licensed motor vehicle dealer. A trade in value is a value assigned to a vehicle when a buyer trades in his or her vehicle as part of a purchase of another vehicle. That type of value given in trading in a vehicle as part of purchase of another vehicle is not an appraisal. The Taxpayer submitted an insurance policy but that is not an appraisal of the Car but rather a policy purchased by the Taxpayer with an assigned replacement amount for the Car.

The refund request form provides other methods besides an appraisal to show the value given was too high. These include bills/estimates or high mileage. The Car's mileage was already considered in the CPI evaluation. The Taxpayer already received a partial refund due to invoices submitted but some invoices submitted were rejected as being from prior to the sale.

The Taxpayer argued the undersigned and the Division could tell the value of the Car based on his video. But the undersigned cannot make a valuation of a vehicle based on a video. The

statute provides that valuations are based on a nationally recognized guidebook or that can be challenged by a licensed motor vehicle dealer's appraisal.

For the Taxpayer to show the Car's value was what he thinks it should be rather than what he paid and rather than the CPI's valuation, he needed to provide an appraisal from a licensed motor vehicle dealer.

b. The Delay, if There was a Delay

During the hearing, the Taxpayer argued this matter had been going on for 560 days and that this was unacceptable. The undersigned was not sure if the Taxpayer was arguing that due to the perceived delay, he should receive his full refund (on either a . . . or . . . value) or if he was just commenting on what he believed was unacceptable.

The Taxpayer submitted his claim for refund on August 4, 2023 and received a final determination of that request by January 16, 2024 so about five (5) months after making his request for a refund. The Division's Exhibit 17 granting the partial refund indicated that payment would be sent separately, and the Taxpayer never claimed not to have received that payment. Thus, while the Division took four (4) months to request further information, the partial refund was granted by the Division approximately one (1) week after the Taxpayer's second request with more information was submitted to the Division. Division's Exhibits Nine (9) and 17.

After the January 16, 2024 grant of the partial refund, on February 1, 2024, the Taxpayer requested a hearing. On April 3, 2024, the Taxpayer was notified of a preliminary conference to be scheduled for June 11, 2024 which was subsequently continued to June 17, 2024. Division's Exhibits 18 (Taxpayer letter dated February 1, 2024 requesting administrative hearing contesting partial refund); 19 (April 3, 2024 letter scheduling preliminary conference for June 11, 2024); and 20 (May 8, 2024 letter rescheduling preliminary conference to June 17, 2024). By email dated

July 5, 2024, the Division informed the Taxpayer that as he rejected the settlement offer at the preliminary conference, a full hearing would be scheduled. Division's Exhibit 22 (emails between Taxpayer and Division dated July 1 and 5, 2024 when the Taxpayer rejected offer of settlement).

The Notice for the hearing was sent October 21, 2024. Division's Exhibit 23. A prehearing conference was held on December 6, 2024. At the prehearing conference, a written status date of January 10, 2025 was set to allow the Taxpayer time to inform the Division when it was convenient for him to go to hearing.¹ A hearing was scheduled for February 4, 2025. Division's Exhibits 24 (emails among the undersigned, the Taxpayer, and Division scheduling hearing); and 25 (letter providing notice of hearing date). The hearing was held on February 4, 2025.

About five (5) months after the Taxpayer requested a refund, the Division granted a partial refund. On February 1, 2024, the Taxpayer requested a hearing. The hearing was held one (1) year later. The hearing process involved a preliminary conference which was held, and the parties were not able to resolve this matter. The full hearing was then scheduled. The full hearing Notice went out on October 21, 2024, and four (4) months later, at a date of the Taxpayer's choosing, a hearing was held.

While the Taxpayer first requested a partial refund on August 4, 2023, the Division did not ignore this request. If the Taxpayer had not requested a hearing after the partial refund, this matter would have been resolved in five (5) months. After the Taxpayer requested a hearing, a preliminary conference was held in approximately four (4) months later with the hearing Notice then being sent out four (4) months later.

The Rhode Island Supreme Court has found there could be due process issues if an agency hearing is not scheduled within a meaningful and reasonable time. *Vito v. Department of*

¹ The Taxpayer had indicated that he would be out of state.

Environmental Management, 589 A.2d 809 (R.I. 1999). In that case, hearings had not been held in some matters for over four (4) years. Here, the matter was scheduled for preliminary conference, a preliminary conference held, scheduled for full hearing, and the hearing held within one (1) year. There has been no prejudicial delay. Furthermore, if the Taxpayer is somehow arguing that this delay was unfair (despite no evidence showing that there was any prejudicial effect of the so called delay), equitable principles are not applicable to an administrative procedure. *Nickerson v. Reitsma*, 853 A.2d 1202 (R.I. 2004) (Supreme Court vacated a Superior Court order that had vacated an agency sanction on so-called “inherent equitable powers”).

c. Conclusion

The Taxpayer has not provided an appraisal from a licensed motor vehicle dealer showing the value used in the CPI should not have been used in the valuation of the Car. The Taxpayer submitted documentation from an automobile body shop, a trade in value, and insurance coverage, none of which are the required methods of valuation. The Taxpayer submitted a video at hearing, but it is not something the undersigned can use to value the Car. The Division already granted a partial refund on certain invoices submitted, but none of the other documentation from the Taxpayer provided evidence that the CPI value should not have been used. Therefore, the Division appropriately denied the Taxpayer’s claim for a partial refund (except that granted already).

VI. FINDINGS OF FACT

1. On or about October 21, 2024, the Division issued a Notice of Pre-Hearing Conference and an Appointment of Hearing Officer to the Taxpayer.
2. A hearing was held on February 4, 2025 with the parties resting on the record.
3. The Taxpayer filed tire invoices on which the Division granted a partial refund of the sales tax refund requested by the Taxpayer.

4. The Taxpayer never filed an appraisal from a licensed motor vehicle dealer as part of his request for a refund of tax paid on the Car.

5. The Taxpayer did not provide any other documentation except the tire invoices demonstrating the Car should be valued other than what it had already been valued by the Division.

6. The facts contained in Section 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 § 44-18-1 *et seq.* and R.I. Gen. Laws § 44-1-1 *et seq.*

2. Pursuant to R.I. Gen. Laws § 44-18-20(e), the Taxpayer is not entitled to his requested refund as his request was incomplete since he failed to provide an appraisal or any other documentation except for the tire invoices which allowed for the already granted partial refund.

VIII. RECOMMENDATION

Based on the foregoing, the Hearing Officer recommends as follows: Pursuant to R.I. Gen. Laws § 44-18-20(e), the Taxpayer is not entitled to his refund request based on paying tax on either a value of _____ or _____² for the Car since his request was incomplete as it lacked an appraisal by a licensed motor vehicle dealer so the Division was correct in denying said refund request.

Date: February 19, 2025



Catherine R. Warren
Hearing Officer


² The Taxpayer paid _____ in tax. He initially requested a refund of _____ based on his belief that the Car's value was _____. He was granted a partial refund of _____. Thus, his tax payment was _____. At hearing, he argued that he wanted a further partial refund on the basis of paying tax on either a value of _____ or _____ for the Car.

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: 2/19/25



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 § 44-19-18 WHICH PROVIDES AS FOLLOWS.

Appeals. Appeals from administrative orders or decisions made pursuant to any provisions of this chapter are to the sixth (6th) division district court pursuant to chapter 8 of title 8. The taxpayer's right to appeal under this chapter is expressly made conditional upon prepayment of all taxes, interest, and penalties, unless the taxpayer moves for and is granted an exemption from the prepayment requirement pursuant to § 8-8-26.

CERTIFICATION

I hereby certify that on the 20th day of February, 2025, 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 electronic delivery to Matt Williamson, Esquire, Department of Revenue, One Capitol Hill, Providence, Rhode Island, 02908.

