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**FINANCE DIRECTOR JIM LATHROP'S MEMO TO TOWN MANAGER STEVE HARTFORD,  
DATED MAY 23, 2013, AND ENTITLED PERSONAL PROPERTY TAX ("MEMO").**

Quotes attributed to Memo at the July 1, 2013, Town Council Meeting.

**Mr. Gagnier:**

There are "450 businesses that either are not current or have never filed."

As a business owner who has filed and "self reported," he "really felt kind of stupid" that there were "pretty big companies . . . in this town that never file."

There is "no mechanism in place" to rectify this great injustice – the "sort of [injustice that] just screams at every taxpayer."

"We are all pulling the wagon – all of us pull the wagon- well, except for some of us I guess decide they don't have to pull the wagon."

The Council must "stop this sort of thing" because it "looks like there are two sets of rules."

"Companies that are getting contracts in this town and they are not filing."

"My god, how stupid am I. I just follow the rules. How stupid am I."

**Councilwoman Douglas:**

And yeah, it is a problem and we can't have different policies for one section of the town or a select section and the policies for the average person in the town who follows through and pays their taxes diligently like good little soldiers who all march in and pay their bills.

There are problems but I think we we'll take care of them a little at a time by chipping away at the stone.

**Mr. Gagnier:**

Sunlight is the best disinfectant. The more that people get involved the better we are.

**Councilwoman Douglas:**

An ordinance is only as good as the person who will enforce it otherwise it is a worthless piece of paper.

The personal property tax list and the real property tax list are people who are delinquent. . . . and they did not pay.

There are also businesses on that list that have made substantial money from the town of Westerly – and I am going to say millions – in money that we’ve paid them for their services.

We’re talking about the abuses. And there are abuses. And they will be addressed. They certainly will be addressed because my policy in life is to be fair. I don’t have favorite children.

**Richard Anthony (July 8, 2013):**

“Unpaid tax bills whether they be real or personal property.”

“To the tune . . . [of] several million dollars.”

“National Grid is on that list of people that haven’t paid their taxes.”

“So how about collecting some of this stuff.”

(Turns to Chief Financial Officer) “Under three Million”

“What a source to help solve our problem.”

“I hope Jim and his staff are very successful in collecting prior due taxes - that will be very meaningful.”

Rhode Island law on personal property tax v. Lathrop's assertions.

1. *"Businesses are to report annual [sic] the amount of equipment they have to the town."*

Not "businesses" but rather "every person and body corporate."

"[E]very person and body corporate liable to taxation [is required] to bring in to the assessors . . . a true and exact account of all the ratable estate owned or possessed by that person or body." RIGL § 44-5-15.

§ 44-3-1 Real and personal property subject to taxation. – All real property in the state, and all personal property belonging to the inhabitants of the state, whether individuals, partnerships or corporations, and all tangible personal property located in the state belonging to nonresidents, are liable to taxation unless otherwise specially provided.

§ 44-3-2 "Personal property" defined. – "Personal property", for the purposes of taxation, means all goods, chattels, and effects, wherever they may be, all ships or vessels, at home or abroad, except those that are exempt from taxation by the laws of the United States or of this state.

§ 229-6. Exemption granted; amount.

Pursuant to RIGL 44-3-3, all household furniture and family stores of a housekeeper in the whole, including clothing, bedding and other white goods, books and all other such tangible personal property items which are common to the normal household shall be exempt from taxation within the Town.

2. *"This is a requirement."*

"[T]he provision of our statute requiring 'every person and body corporate liable to taxation to bring in a true and exact account . . . is merely directory.'" *Stone v. Norris*, 101 A. 428, 429 (R.I. 1917).

3. *"[T]here are no tools for the town to enforce this."*

"Whoever neglects or refuses to bring in the account, if overtaxed, shall have no remedy therefor." RIGL § 44-5-16.

"[W]hen there is default in bringing in such account . . . it is the right and duty of the assessors to proceed to ascertain the nature and extent of such persons' taxable property from the sources of information at their command and to place a valuation upon it according to their best judgment." *Stone v. Norris*, 101 A. 428, 429 (R.I. 1917).

"The assessors shall assess and apportion any tax on the inhabitants of the town and the ratable property therein, at the time ordered by the town. There under it is the duty of the assessors to assess every person and all property liable to taxation. They are not excused from the performance of this duty in case no accounts are filed. Nor, in case of the filing of accounts, are they to be confined to or restricted by the accounts rendered. *Greenough v. Board of Canvassers of Central Falls*, 82 A. 411, 418 (R.I. 1912).

"The electors in a financial town meeting of any town qualified to vote on any proposition to impose a tax or for the expenditure of money, or the city council of a city, shall determine the date on which taxes are due and payable and the date on which they are subject to a penalty, unless otherwise provided by law, and all taxes remaining unpaid on the specified date shall carry until collected a penalty at a rate determined by the electors or the city council." RIGL § 44-5-5. Determination of date on which taxes due - Penalties on delinquencies

"Any city or town may provide for a deduction from the tax assessed against any person, if paid by an appointed time, or for the penalties by way of percentage on a tax, if not paid at the time appointed, not exceeding eighteen percent (18%) per annum, as it deems necessary to insure punctual payment." RIGL § 44-5-9. Deductions and penalties to insure prompt payment

4. *"It is my estimate if all businesses in Westerly were compliant with reporting the annual tax levy on personal property tax [sic] would increase \$50 -\$100,000 per year."*

**(According to information provided by the Town of Westerly Tax Database online <https://www.opaldata.net/VGSITaxRolls/default.aspx>)**

Two businesses included with the Memo:

Diane Avedesian/Serra has been paying a tangible property tax for Westerly Preschool from 1999 through 2013.

Caswell Cooke Jr. has been paying a tangible property tax for Caswell Cooke Productions from 2003 through 2013.

Two businesses on the Memo's list are in the Top 10 for paying tangible property tax:

Cherenzia Excavation Inc. has been paying a tangible property tax since 2004 and in 2013 paid \$25K. (5<sup>th</sup>)

Ocean House Management LLC has been paying a tangible property tax since 2011 and in 2013 paid \$24K. (8<sup>th</sup>)

2013:

National Grid (electric): \$183.3K;

National Grid (gas): \$90.3K;

Coxcom Inc.: \$56K;

Stop & Shop Supermarket Co LLC: \$28K;

E & A Markets Inc.: \$24.6K;

Wal-Mart Stores East: \$24.5K;

The Washington Trust: \$22K;

The Misquamicut Club Inc. ≈ \$16.5K;

**N.B.**

*The town of Westerly Assessor's Office does not keep records as required pursuant to § 44-5-20. List of ratable property.*

*The assessors shall make a list containing the true, full, and fair cash value or a uniform percentage of its value . . . of the ratable estate in the city or town, placing the real estate, tangible personal property except manufacturers' machinery and equipment, and manufacturers' machinery and equipment in separate columns, distinguishing real estate which is assessed specially as farm, forest, or open space land . . . and also distinguishing those who give in an account and those who do not and shall apportion the tax in accordance with the provisions of this chapter.*

5. *“Westerly could make this a requirement of doing work with the Town, that a current personal property tax declaration must be filed.”*

Only the General Assembly may grant to Westerly the power to levy, assess and collect taxes. Article XIII of the Rhode Island Constitution § 5.

"No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." Fourteenth Amendment, United States Constitution.

“[W]hen there is default in bringing in such account the assessors are clothed with no authority to summon in such delinquents and compel disclosure, as is the case in some states. *Stone v. Norris*, 101 A. 428, 429 (R.I. 1917).

“[T]axing statutes are to be strictly construed against the taxing authority. ‘Doubts as to the construction of (taxing) laws of this character are to be resolved in favor of the taxpayer.’” *Potowomut Golf Club, Inc. v. Norberg*, 337 A.2d 226, 227 114 R.I. 589 (R.I. 1975).