

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
DAVE SHAPIRO )

For Appellant: Dave Shapiro, in pro. per.

For Respondent: Bruce W. Walker  
Chief Counsel

David M. Hinman  
Counsel

O P I N I O N

This appeal is made pursuant to section 19059 of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claims of Dave Shapiro for refund of personal income tax in the amounts of \$724.00, \$4,332.22 and \$5,002.78 for the years 1968, 1969 and 1970, respectively.

Appeal of Dave Shapiro

On February 5, 1971, respondent issued jeopardy assessments against appellant Dave Shapiro in the total **amount** of \$10,059 for the years 1968 through 1970. These assessments were collected in full on or before February 10, 1971. On December 2, 1975, appellant filed the claims for refund under appeal alleging that he had earned no taxable income during **the** years in question; We need not reach this issue, however, since we have determined that appellant's claims are barred by the statute of limitations.

Section 19053 of the Revenue and Taxation Code provides:

No credit or refund shall be allowed or made after four years from the last day prescribed for filing the return or after one year from the date of the overpayment, whichever period expires the later, unless before the expiration of the period a claim **therefor** is filed by the taxpayer, or unless before the expiration of such period the Franchise Tax Board allows a credit, makes a refund, issues **a** notice of proposed overpayment, or certifies such overpayment to the State Board of Control for approval of the refunding thereof.

**Under this section, the period for filing a refund claim** for the last year in issue expired as of April 16, 1975. Since appellant did not file the claims in question until December 2, 1975, the claims are not timely.

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

Appeal of Dave Shapiro

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 19060 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claims of Dave Shapiro for refund of personal income tax in the amounts of \$724.00, \$4,332.22 and \$5,002.78 for the years 1968, 1969 and 1970, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 28th day of September, 1970, by the State Board of Equalization.

William B. Bunker Chairman  
Paul J. [unclear] Member  
Leo [unclear] Member  
Iris [unclear] Member  
\_\_\_\_\_, Member