

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:
C. ANZALDI

) OTA Case No. 21108722
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OPINION

Representing the Parties:

For Appellant: C. Anzaldi

For Respondent: Joel M. Smith, Tax Counsel III

O. AKOPCHIKYAN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Anzaldi¹ (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$1,074 for tax year 2014 and partially denying appellant’s claim for refund in the amount of \$3,324.65 for tax year 2015.

Appellant waived the right to an oral hearing; therefore, this appeal is decided on the written record.

ISSUE

Whether appellant’s claims for refund for tax years 2014 and 2015 are barred by the statute of limitations.

FACTUAL FINDINGS

Tax Year 2014

1. On May 3, 2021, appellant and appellant’s spouse filed their joint 2014 California tax return and reported an overpayment of tax.

¹ Although appellant and her spouse, T. Anzaldi, filed a joint return for the 2014 and 2015 tax years, appellant’s spouse did not sign the appeal letter. Accordingly, this appeal is in appellant’s name only.

2. Prior to the filing of the 2014 return, FTB collected \$405 through withholding, which was applied to the 2014 tax year on April 15, 2015, and \$1,200 between May 15, 2018, and August 20, 2018, as part of a payment plan.
3. FTB acknowledged appellant's 2014 California tax return as a claim for refund, but denied the claim on the basis that it was barred by the statute of limitations.
4. Appellant timely filed this appeal.

Tax Year 2015

5. On May 5, 2021, appellant and appellant's spouse filed their joint 2015 California tax return and reported an overpayment of tax.
6. Prior to the filing of the 2015 return, FTB collected \$341 through withholding, which was applied to the 2015 tax year on April 15, 2016, and \$5,173.03 between October 31, 2018, and March 29, 2021, as part of a payment plan.
7. FTB acknowledged appellant's 2015 California tax return as a claim for refund and transferred \$1,516.74 to the 2016 tax year, which consists of a \$1,500 tax payment on March 29, 2021—the only payment made within one year of filing the return—plus interest. FTB denied the balance of the claim on the basis that it was barred by the statute of limitations.
8. Appellant timely filed this appeal.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. The statute of limitations provides, in relevant part, that no credit or refund may be allowed unless a claim for refund is filed within the later of: (1) four years from the date the return was filed, if the return was timely filed pursuant to an extension of time to file; (2) four years from the date the return was due, determined without regard to any extension of time to file; or (3) one year from the date of overpayment. (R&TC, § 19306(a).) Taxpayers have the burden of proving that the claim for refund is timely and that they are entitled to a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

In her request for appeal, appellant contends that she was not aware of the overpayments for tax years 2014 and 2015. However, even if we assume appellant was not aware of the overpayments prior to the expiration of the statute of limitations (for example, if appellant's

spouse remitted the overpayments without informing appellant), there is no equitable basis for tolling the statute of limitations. (*Appeal of Estate of Gillespie, supra.*) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Additionally, FTB is not obligated to inform a taxpayer of the time within which a claim for refund must be filed. (*Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856.)

Appellant's claims for refund are barred by the statute of limitations because they were not filed within the time limitations set forth in R&TC section 19306. With respect to tax year 2014, appellant and appellant's spouse filed their joint 2014 California tax return, which was treated as a refund claim, on May 3, 2021. The first statute of limitations period is not applicable because appellant did not file the 2014 return pursuant to a valid extension of time to file. The second statute of limitations period expired on April 15, 2019, because appellant's 2014 return was originally due on April 15, 2015. (R&TC, § 18566.) Lastly, the third statute of limitations period expired on August 20, 2019, because FTB received the last tax payment for tax year 2014 on August 20, 2018.

With respect to tax year 2015, appellant and appellant's spouse filed their joint 2015 California tax return, which was treated as a refund claim, on May 5, 2021. The first statute of limitations period is not applicable because appellant did not file the 2015 return pursuant to a valid extension of time to file. The second statute of limitations period expired on April 15, 2020, because appellant's 2015 California tax return was originally due on April 15, 2016. (R&TC, § 18566.) Lastly, the only tax payment made within one year of filing the refund claim for tax year 2015 was a payment of \$1,500 on March 29, 2021, which FTB transferred to the 2016 tax year, with interest, pursuant to R&TC section 19301. The remaining payments were not made within one year of filing the claim for refund.²

² The last payment immediately before the \$1,500 payment was a payment of \$300 on January 8, 2020.

HOLDING

Appellant’s claims for refund for tax years 2014 and 2015 are barred by the statute of limitations.

DISPOSITION

FTB’s denial of appellant’s claim for refund for tax year 2014 and partial denial of appellant’s claim for refund for tax year 2015 are sustained.

DocuSigned by:

Ovsep Akopchikyan

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Ovsep Akopchikyan

Administrative Law Judge

We concur:

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Cheryl L. Akin

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Cheryl L. Akin

Administrative Law Judge

DocuSigned by:

Huy "Mike" Le

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Huy "Mike" Le

Administrative Law Judge

Date Issued: 3/23/2022