

2. On April 26, 2021, FTB published guidance indicating that the deadline for claiming 2016 tax refunds was postponed to May 17, 2021, from April 15, 2021.¹
3. Appellants untimely filed their 2016 tax return on July 12, 2021.² The 2016 return calculated \$146 in total tax due after exemption credits and \$3,459 in payments, and requested a refund of the overpayment.³
4. On October 18, 2021, FTB disallowed the overpayment because the return claiming the refund was not filed before the statute of limitations expired.
5. This timely appeal followed.

DISCUSSION

The R&TC provides that no credit or refund shall be allowed or made 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 due date for filing a return for the year at issue (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. (R&TC, § 19306(a).) The taxpayer has the burden of proof to show entitlement to a refund and that the claim was timely filed. (*Appeal of Estate of Gillespie*, 2018-OTA-052P). “A taxpayer’s untimely filing of a claim for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected.” (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even when it is later shown that the tax was not owed in the first place. (*U.S. v. Dalm* (1990) 494 U.S. 596, 602.) Such fixed deadlines may appear harsh because they can be missed, but the resulting occasional harshness is redeemed by the clarity of the legal obligation imparted. (*Appeal of Khan*, 2020-OTA-126P.)

As taxpayers untimely filed their 2016 tax return, the first four-year statute of limitations is inapplicable. Concerning the four-year statute of limitations beginning from the return due date, FTB guidance provided that the postponed deadline for filing a claim for refund for the 2016 tax year was May 17, 2021. The one-year statute of limitations to claim a refund expired

¹ See *State Postpones Deadlines For Claiming 2016 Tax Refunds to May 17, 2021*, April 26, 2021, available at: <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-may-17-2021.html>.

² Although appellants signed their 2016 tax return on July 2, 2021, FTB’s date of receipt was July 12, 2021.

³ Appellants’ return shows \$3,459 in withholding. FTB’s records include appellants’ subsequent payments made to April 15, 2019, which totals \$4,642.13. Total payments of \$4,642.13, less the tax liability of \$146 and \$68 in installment agreement fees, equals the \$4,428.13 amount at issue.

on April 15, 2020, one year after the last payment was made on April 15, 2019. Appellants' claim for refund for the 2016 tax year was filed on July 12, 2021. Accordingly, appellants' claim for refund is barred under both the four-year and one-year statutes of limitation.

Appellants' sole contention on appeal is that the result is unfair. Appellants claim that they were audited in 2015 and have been "unable to pay anyone to do our taxes or assist [us] with appealing." Presumably because of their continuing difficult financial circumstances, appellants assert that "[the 2016 return] went undone until recently." However, we have no authority to grant relief except where the law specifically allows. (*Appeal of Estate of Gillespie, supra; Appeal of Benemi Partners, L.P., supra.*)

HOLDING

The statute of limitations bars appellants' claim for refund for the 2016 tax year.

DISPOSITION

FTB's action denying appellants' claim for refund is sustained.

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Asaf Kletter
Administrative Law Judge

We concur:

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John O. Johnson
Administrative Law Judge

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Daniel K. Cho
Administrative Law Judge

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