

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:
L. YOUNG

) OTA Case No. 21098636
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OPINION

Representing the Parties:

For Appellant: L. Young

For Respondent: Eric R. Brown, Tax Counsel III

A. KLETTER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, L. Young (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$637.03 for the 2014 tax year.

Appellant waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

Whether the statute of limitations bars appellant’s claim for refund for the 2014 tax year.

FACTUAL FINDINGS

1. Appellant failed to timely file her 2014 California nonresident tax return.
2. FTB received information that appellant earned California wages, prompting a filing requirement. On May 23, 2017, FTB issued appellant a Request for Tax Return for the 2014 tax year (Request), asking that appellant file or provide evidence that she already filed her 2014 California tax return, or explain why she had no filing requirement for the 2014 tax year.
3. When appellant did not respond to the Request, FTB issued a Notice of Proposed Assessment (NPA) for the 2014 tax year. The NPA estimated appellant’s income,

- determined that appellant owed tax for the 2014 tax year, and imposed a late-filing penalty, plus interest. Appellant did not timely protest the NPA, and it became final.
4. FTB initiated collection action. On September 15, 2019, FTB garnished appellant's wages and applied the payment to appellant's tax liability for the 2014 tax year. On September 20, 2019, FTB applied a transfer payment of unclaimed property to appellant's tax liability for the 2014 tax liability.¹ FTB received the last payment on September 20, 2019.
 5. On July 15, 2021, appellant filed her 2014 California nonresident tax return and claimed an overpayment of tax. FTB accepted the return as filed, which it treated as a claim for refund for the 2014 tax year.
 6. On August 10, 2021, FTB denied appellant's claim for refund because appellant failed to file her return claiming the refund before the statute of limitations expired.
 7. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) 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 in showing entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

As appellant's 2014 California return was untimely filed on July 15, 2021, R&TC section 19306(a)'s first four-year statute of limitations concerning timely filing is inapplicable. Appellant's return filed on July 15, 2021, also does not meet the second four-year statute of limitations because it expired on April 15, 2019, four years after appellant's 2014 California tax return was originally due on April 15, 2015. Lastly, appellant's claim for refund does not meet the one-year statute of limitations because the return was filed after September 20, 2020, the date on which the statute of limitations expired one year from appellant's last payment for the 2014 tax year on September 20, 2019.

¹ FTB wrote off the liability remaining after application of the September 15, 2019 and September 20, 2019 payments shortly thereafter.

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*U.S. v. Brockamp* (1997) 519 U.S. 347 [no intent to apply equitable tolling in a federal tax statute of limitations].) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P (*Benemi*).) 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. (*Ibid.*) 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 (*Dalm*).) 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.)

Appellant asserts that she had no tax liability for the 2014 year and takes issue with FTB's garnishment of her wages. However, a taxpayer's untimely filing of a claim for any reason bars a refund, even where the tax is erroneously, illegally, or wrongfully collected, or was not owed in the first place. (*Benemi, supra; Dalm, supra*, 494 U.S. at p. 602.) We have no authority to grant relief except where the law specifically allows. (*Appeal of Estate of Gillespie, supra; Benemi, supra.*)

HOLDING

The statute of limitations bars appellant’s claim for refund for the 2014 tax year.

DISPOSITION

FTB’s action denying appellant’s claim for refund is sustained.

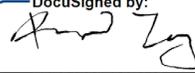
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Asaf Kletter
Administrative Law Judge

We concur:

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Administrative Law Judge

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Richard Tay
Administrative Law Judge

Date Issued: 4/20/2022