

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:
S. RAMAMURTHY

) OTA Case No. 21108797
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OPINION

Representing the Parties:

For Appellant:

S. Ramamurthy

For Respondent:

Di T. Nguyen, Graduate Legal Assistant

A. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, S. Ramamurthy (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$1,827 for the 2016 tax year.

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

ISSUE

Whether appellant timely filed a claim for refund for the 2016 tax year.

FACTUAL FINDINGS

1. Appellant untimely filed a 2016 tax return on June 15, 2021, reporting total tax of \$17,567 and income tax withholdings of \$19,394, resulting in an overpayment of \$1,827.
2. Respondent treated the return as a claim for refund. Respondent denied the claim.
3. This timely appeal followed.

DISCUSSION

If there has been an overpayment of any liability imposed under the Personal Income Tax Law, by a taxpayer for any year for any reason, the amount of the overpayment may be credited against any amount due from the taxpayer and the balance shall be refunded to the taxpayer.

(R&TC, § 19301(a).) The taxpayer has the burden of proof to show that he or she is entitled to a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

R&TC section 19306(a) provides, in part, that no credit or refund shall 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 within the extended filing period pursuant to an extension of time to file; (2) four years from the due date prescribed for filing the return (determined without regard to any extension of time for filing the return); or (3) one year from the date of the overpayment. Amounts withheld are deemed to have been paid on the last day prescribed for filing the return. (R&TC, § 19002(c)(1).) The language of the statute of limitations is explicit and strictly construed. (*Appeal of Khan*, 2020-OTA-126P.) A taxpayer's failure to file a claim for refund, for whatever reason, within the statutory period bars him or her from doing so at a later date. (*Ibid.*) There is no equitable basis for tolling the statute of limitations. (*Appeal of Estate of Gillespie, supra.*)

Here, because appellant did not timely file a 2016 return, appellant was required to file a refund claim no later than April 15, 2021, under the four-year statute of limitations, which is four years from the original due date of the return. Respondent postponed the April 15, 2021 due date to May 17, 2021.¹ Under the alternative one-year statute of limitations, appellant was required to file the refund claim no later than April 15, 2018, which is one year from the date appellant's withholdings for 2016 are deemed paid (April 15, 2017).²

Appellant argues that she is entitled to a refund because she filed her return within four years of the original due date. However, the record shows that appellant did not submit a 2016 return until June 15, 2021, after the postponed due date for claiming a 2016 refund of May 17, 2021, and appellant has not provided any evidence to the contrary. Accordingly,

¹ Although the statute of limitations for a claim for refund is strictly construed under R&TC section 19306, respondent postponed that deadline for claiming 2016 refunds to May 21, 2021, due to the COVID-19 pandemic. (See R&TC, § 18572; Franchise Tax Board, *State Postpones Deadlines For Claiming 2016 Tax Refunds to May 17, 2021*, news release (Apr. 26, 2021) <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 Respondent asserts that the deadline to file a refund was no later than "April 1518, 2021 [sic]," under the four-year statute of limitations or April 18, 2018, under the one-year statute of limitations. Respondent considers that in 2017, the April 15 due date fell on a Saturday and Monday, April 17, 2017, was a federal holiday, which pushed the return date to April 18, 2017. R&TC section 18566 states that returns filed on a calendar year basis must be filed by April 15 following the close of the calendar year. Although California Code of Regulations, title 18, section 18566 states that if April 15 falls on a Saturday, Sunday, or other legal holiday, respondent will accept the return on the following day without penalty, this does not change the statutory due date stated in R&TC section 18566.

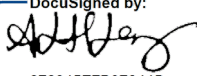
because appellant did not timely file a refund claim under either the four-year or one-year statute of limitations for 2016, appellant is barred from seeking a refund.

HOLDING

Appellant did not timely file a claim for refund for the 2016 tax year.

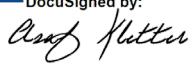
DISPOSITION

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

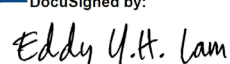
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Andrea L.H. Long
Administrative Law Judge

We concur:

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Administrative Law Judge

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Eddy Y.H. Lam
Administrative Law Judge

Date Issued: 5/27/2022