

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 21108802
)
C. RAMIREZ AND)
E. RAMIREZ)
 _____)

OPINION

Representing the Parties:

For Appellants: C. Ramirez and E. Ramirez

For Respondent: Alisa L. Pinarbasi, Tax Counsel

For Office of Tax Appeals: Amber Poon, Graduate Legal Assistant

S. RIDENOUR, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Ramirez and E. Ramirez (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$2,750 for the 2013 tax year.

Appellants elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single administrative law judge. (Cal. Code Regs., tit. 18, § 30209.1.) Appellants waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

Whether appellants' claim for refund for the 2013 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellants timely filed their joint 2013 California tax return and, on April 14, 2014, paid the tax due in full.
2. On March 12, 2021, appellants filed an amended 2013 California tax return to exclude their social security benefits from their taxable income and to claim an overpayment of

tax. FTB accepted the return as filed, which FTB treated as a claim for refund for the 2013 tax year.

3. FTB later issued a notice denying the claim for refund because appellants failed to file the claim for refund before the statute of limitations expired. 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.)

Here, appellants timely filed their 2013 California tax return on April 14, 2014. Therefore, pursuant to R&TC section 19306(a), the four-year statute of limitations for appellants to timely file a claim for refund expired on April 15, 2018. Appellants also timely paid their 2013 income tax liability; therefore, the one-year statute of limitations expired on April 15, 2015. Appellants did not file their claim for refund until March 12, 2021, which is after the last date (April 15, 2018) on which a timely claim for refund could have been filed under R&TC section 19306(a).

The statute of limitations may not be equitably tolled. (*U.S. v. Brockamp* (1997) 519 U.S. 347.) The language of the statute of limitations is explicit and must be strictly construed. (*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. (*Ibid.*)

Appellants contend that their claim for refund should not be barred by the statute of limitations because FTB failed to inform them of the overpayment for the 2013 tax year and the statute of limitations for filing a claim for refund. However, FTB has no duty to discover overpayments made by a taxpayer (*Appeal of Cervantes* (74-SBE-029) 1974 WL 2844), or inform a taxpayer of the time within which a claim for refund must be filed to avoid the expiration of the statute of limitations (*Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856). 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.) OTA has 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

Appellants' claim for refund for the 2013 tax year is barred by the statute of limitations.

DISPOSITION

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

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Sheriene Anne Ridenour

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Sheriene Anne Ridenour
Administrative Law Judge

Date Issued: 6/20/2022