

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
A. SALINAS

) OTA Case No. 21119142
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OPINION

Representing the Parties:

For Appellant: A. Salinas

For Respondent: Leoangelo C. Cristobal, Tax Counsel

A. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, A. Salinas (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$1,150 for the 2016 tax year.

Appellant 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.) 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 return on October 15, 2021, reporting total tax of \$863 and income tax withholdings of \$2,013, resulting in an overpayment of \$1,150.
2. Respondent treated the return as a claim for refund. Respondent denied the refund 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 filed within the extended due date; (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. For purposes of computing the statute of limitations on refund claims, amounts withheld are deemed to have been paid on the original due date 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 receiving the refund at a later date. (*Ibid.*)

Here, because appellant did not file a 2016 return by the extended due date, appellant was required to file a refund claim no later than April 15, 2021, which is four years from the original due date of the return. Due to the COVID-19 pandemic, however, respondent postponed the April 15, 2021 refund claim 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).

Appellant contends that he has reasonable cause for his failure to file a timely refund claim. Appellant argues that he took the COVID-19 pandemic seriously by obeying the shelter-in-place mandates and only ventured outside for work and Costco trips. Appellant contends that the mandates prohibited him from obtaining part-time work to earn additional money and hiring

¹ Although the statute of limitations for a claim for refund is strictly construed under R&TC section 19306, respondent postponed the deadline for claiming 2016 refunds to May 17, 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>.)

a CPA to prepare his tax returns. Appellant asserts that the refund amount is not a monetary handout or charity, but money he worked hard to earn that would now help him improve his life.

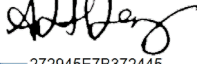
Although OTA is sympathetic to appellant's situation, there is no reasonable cause exception or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The result of fixed deadlines may appear harsh, but the occasional harshness is redeemed by the clarity imparted. (*Ibid.*) Without a legislatively enacted exception to the statute of limitations, the Office of Tax Appeals cannot abate a seemingly unfair or harsh outcome. (*Appeal of Estate of Gillespie, supra.*) The record shows that appellant did not file a 2016 return until October 15, 2021, which is 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, because appellant did not timely file a refund claim under the four-year statute of limitations for 2016, appellant's refund claim is barred.

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

Date Issued: 6/22/2022