

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
M. HARRIS-NIXON

) OTA Case No. 21118957
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OPINION

Representing the Parties:

For Appellant: M. Harris-Nixon

For Respondent: Mira V. Coutinho, Tax Counsel

O. AKOPCHIKYAN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Harris-Nixon (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$1,239.83 for the 2014 tax year.

Appellant waived the right to an oral hearing; therefore, Office of Tax Appeals decides this appeal based on the written record.

ISSUE

Whether appellant's claim for refund for the 2014 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. On March 1, 2016, FTB issued a Request for Tax Return (Request) to appellant because it learned that appellant earned wages of \$39,767 in 2014 but did not file a 2014 California tax return. Appellant did not respond to the Request.
2. On May 2, 2016, FTB issued a Notice of Proposed Assessment to appellant, proposing to assess tax, penalties, a collection cost recovery fee, and interest for the 2014 tax year.

3. Between March 28, 2017, and May 11, 2017, FTB collected payments totaling \$1,322.23 for the 2014 tax year. FTB also received appellant's tax withholdings of \$214, which was credited to her 2014 tax year account on April 15, 2015.
4. On July 6, 2021, appellant filed her 2014 California tax return, reporting an overpayment of \$174.
5. On October 18, 2021, FTB acknowledged overpayments of \$1,239.83, but denied appellant's refund claim on the basis that it is barred by the statute of limitations.
6. This timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. The statute of limitations provides, in relevant part, that no credit or refund may 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 pursuant to an extension of time to file; (2) four years from the date the return was due, determined without regard to any extension of time to file; or (3) one year from the date of overpayment. (R&TC, § 19306(a).) Taxpayers have the burden of proving that claims for refund are timely and that they are entitled to a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) There is no equitable basis under California law for suspending the statute of limitations. (*Ibid.*) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

Appellant's refund claim is barred by the statute of limitations because it was not filed within the time limitations set forth in R&TC section 19306. The first statute of limitations period is not applicable because appellant did not file her 2014 California return pursuant to a valid extension of time to file. The second statute of limitations period expired on April 15, 2019, because appellant's 2014 return was originally due on April 15, 2015. (R&TC, § 18566.) Lastly, the third statute of limitations period expired on May 11, 2018, because FTB collected the final payment for appellant's 2014 liability on May 11, 2017. Accordingly, appellant's refund claim filed on July 6, 2021, is barred by the statute of limitations.

In her request for appeal, appellant asserts that she is entitled to a refund because she "had a lot of issues going on when [she] got behind on [her] taxes." Appellant does not state what these issues were. While the time for filing a claim for refund may be extended if a taxpayer is financially disabled, as defined in R&TC section 19316, appellant neither asserts nor

presents evidence that she was financially disabled. Accordingly, because appellant has not established a basis for suspending the statute of limitations, her refund claim was properly denied.

HOLDING

Appellant’s claim for refund for the 2014 tax year is barred by the statute of limitations.

DISPOSITION

FTB’s action denying appellant’s claim for refund for the 2014 tax year is sustained.

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Ovsep Akopchikyan
Administrative Law Judge

We concur:

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Josh Lambert
Administrative Law Judge

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Teresa A. Stanley
Administrative Law Judge

Date Issued: 10/17/2022