

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: ) OTA Case No. 21119148  
D. C. MEEHAN AND )  
D. N. MEEHAN )  
\_\_\_\_\_ )

**OPINION**

Representing the Parties:

For Appellants: D. C. Meehan and D. N. Meehan

For Respondent: AnaMarija Antic-Jezildzic, Specialist

T. LEUNG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, D. C. Meehan and D. N. Meehan (appellants) appeal an action by Franchise Tax Board (respondent) denying appellants’ claims for refund of \$3,057.38 and \$11,997.26 for the 2014 and 2016 taxable years, respectively.

Appellants waived their rights to an oral hearing; therefore, this matter is being decided based on the written record.

**ISSUE**

Were appellants’ claims for refund timely?

**FACTUAL FINDINGS**

1. Appellants did not file their joint 2014 and 2016 California personal income tax returns (Forms 540), reflecting overpayments for both taxable years, until August 11, 2021, which respondent treated as claims for refund.
2. Respondent had determined that appellant-husband earned sufficient income during 2014 and 2016 to trigger the filing of the Forms 540 for those taxable years. Respondent issued notices of proposed assessment (NPAs) so informing appellants, and when no protests were filed, the NPAs went final, and respondent began collection action.

3. After collection action began, appellants satisfied their 2014 balance due in 2016, and an installment plan was executed and implemented for the 2016 taxable year.
4. Under the installment plan, appellants made payments totaling \$3,127.44 during 2020 and 2021, which respondent refunded; however, respondent denied the balance of appellants' 2014 and 2016 refund claims because they were filed too late.

### DISCUSSION

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 original 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.) In this appeal, appellants did not file their 2014 and 2016 Forms 540 until August 11, 2021, which is also the date of their refund claims; as such, it is clear that, except for the \$3,127.44 refunded by respondents for installment payments remitted by appellants within one year of August 11, 2021, appellants' claims are untimely. While the consequences of fixed deadlines may be harsh, the occasional harshness is redeemed by the clarity they provide. (*Prussner v. U.S.* (7th Cir. 1990) 896 F.2d 218, 222-223; *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellants do not dispute that their refund claims were filed late; instead, they contend that they were unaware of the statute of limitations for filing refund claims and that they believe there is no corresponding statute of limitations for California to collect taxes.<sup>1</sup> Moreover, the law does not provide for the waiver of the statutory period based on reasonable cause. A taxpayer's failure, for whatever reason, to file a claim for refund or credit within the statutory period prevents the taxpayer from doing so at a later date. (*Appeal of Hammerman* (83-SBE-260) 1983 WL 15631.) Thus, since the refund claims at issue were filed late, the law prohibits the granting of them.

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<sup>1</sup> Contrary to appellants' understanding, respondent generally has four years after a tax return is filed to issue an NPA to a taxpayer before a deficiency may be assessed or collected. (See R&TC, § 19057(a).)

HOLDING


Respondent properly granted \$3,127.44 of appellants’ refund claims; the rest of appellants’ refund claims were not filed on time and were properly denied.


DISPOSITION

Respondent’s action is sustained.

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Tommy Leung  
Administrative Law Judge

We concur:

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Ovsep Akopchikyan  
Administrative Law Judge

DocuSigned by:  
  
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Teresa A. Stanley  
Administrative Law Judge

Date Issued: 10/6/2022