

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:
A. REZA

) OTA Case No. 22019428
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OPINION

Representing the Parties:

For Appellant: A. Reza
For Respondent: Cynthia D. Kent, Tax Counsel IV
For Office of Tax Appeals: Danielle Pegan, Graduate Student Assistant

K. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, A. Reza (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$1,829.68 for the 2015 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’s claim for refund for the 2015 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant did not file a timely 2015 California income tax return.
2. FTB received information that appellant earned sufficient income that required her to file a California income tax return. On May 16, 2017, FTB issued a Request for Tax Return, asking appellant to provide evidence that she already filed a 2015 tax return or explain why she did not need to file a 2015 tax return.

3. When appellant did not reply to FTB's Request, FTB issued a Notice of Proposed Assessment (NPA) on July 17, 2017. FTB estimated a proposed tax liability of \$810.00 plus penalty and interest.
4. FTB initiated collection action against appellant. FTB received payments from two separate installment plans entered into with appellant and appellant's tax credits from overpayments in 2018, 2019, and 2020. FTB collected a total of \$1,425.02 between April 17, 2020, and August 15, 2021.
5. On June 15, 2021, FTB accepted appellant's untimely 2015 tax return and treated it as a claim for refund. FTB allowed a credit of \$1,042.34 on appellant's account for payments received within one year of the 2015 tax return filing date. On October 13, 2021, FTB notified appellant that the IRS intercepted her state income tax refund of \$1,046.90.¹
6. On October 14, 2021, FTB denied the remaining overpayment amount of \$1,829.68 on the grounds that the statute of limitations expired.
7. Appellant filed this timely appeal.

DISCUSSION

R&TC section 19306(a) states that no credit or refund shall be allowed or made unless a claim for refund is filed by 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. The taxpayer has the burden of proof in showing he or she is entitled to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Additionally, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*U.S. v. Brockamp* (1997) 519 U.S. 347, 347 [no intent to apply equitable tolling in a federal tax statute of limitations].) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P (*Benemi*)). A taxpayer's untimely filing of a claim for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) This is true even when it is later shown that the tax was not owed in the first place. (*U.S. v. Dalm* (1990) 494 U.S. 596, 605

¹ This amount was the total of appellant's allowable credit of \$1,042.34 and accrued interest of \$4.56.

(*Dalm*.) 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.)

Appellant filed her 2015 tax return on June 15, 2021, well after the April 15, 2016, due date. Appellant neither timely filed a 2015 tax return pursuant to an extension nor filed a return within four years following the April 15, 2016, due date.² Appellant is not entitled to a refund under the first two statutes of limitation. However, appellant is entitled to a refund of payments within one year of the overpayment after filing a tax return. FTB credited a \$1,046.90 refund for payments made between June 15, 2020, and June 15, 2021, pursuant to the one-year statute of limitations. (R&TC § 19306(a).) However, FTB may enter into an agreement to collect any delinquent tax debt due to the IRS. (See R&TC, § 19291.) Pursuant to R&TC section 19291, the IRS intercepted FTB's credited funds to pay a debt on appellant's records. Lastly, FTB properly denied a refund of appellant's April 17, 2020, and June 10, 2020, payments because the overpayments fell outside the one-year statute of limitations period.

Appellant states that she did not know nor was she informed of the statute of limitations in a phone call with an FTB agent. Throughout the 2016-2021 period, appellant argues that FTB lacked good faith when it did not inform appellant of a statute of limitations and, if FTB informed her, appellant would have filed a 2015 tax return. However, ignorance or a misunderstanding of the law generally does not excuse a failure to comply. (*Appeal of Wright Capital Holdings, LLC*, 2019-OTA-219P.) Although appellant may have cooperated with FTB, there is no reasonable cause or equitable basis that tolls the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) FTB did not have a duty to inform appellant of the statute, nor did appellant timely file a 2015 tax return that entitled her to a refund outside the June 15, 2020, to June 15, 2021 period. Appellant has not shown that she is entitled to a refund for the 2015 tax year.


² Although the statute of limitations is strictly construed, OTA notes that FTB Notice 2020-02 extended the due date for filing a claim for refund from April 15, 2020, to July 15, 2020. Appellant did not file until June 15, 2021, and the extended due date does not have any bearing on our analysis.

HOLDING

Appellant’s claim for refund for the 2015 tax year is barred by the statute of limitations.

DISPOSITION

FTB’s denial of appellant’s claim for refund is sustained.

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Keith T. Long
Administrative Law Judge

Date Issued: 10/5/2022