

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
S. WATKINSON

) OTA Case No. 22029691
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OPINION

Representing the Parties:

For Appellant: S. Watkinson

For Respondent: Brandon S. Knoll, Tax Counsel

S. HOSEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, S. Watkinson (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$14,153 for the 2016 tax year.

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

ISSUE

Does the statute of limitations bar appellant’s claim for refund for the 2016 tax year?

FACTUAL FINDINGS

1. On January 11, 2021, FTB notified appellant that she had \$14,152.50 of nonwage withholding credits for the 2016 tax year, but that appellant had not filed a tax return requesting claiming the credit or requesting a refund.
2. On October 14, 2021, appellant filed a 2016 California Nonresident or Part-Year Resident Income Tax Return (Form 540NR) requesting a refund of \$14,153.
3. FTB denied appellant’s claim for refund because the tax return was not filed before the statute of limitations had expired.
4. This timely appeal followed.

DISCUSSION

R&TC section 19306 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).) A taxpayer has the burden of proving that claims for refund are timely and that he or she is entitled to a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Even when it is later shown that the tax was not owed in the first place, if the claim is not timely filed, no refund can be claimed. (*U.S. v. Dalm* (1990) 494 U.S. 596, 602.)

The parties agree that appellant untimely filed her 2016 California income tax return outside the prescribed time periods set forth in R&TC section 19306. Rather, appellant requests that OTA equitably toll the statute of limitations because she did not receive notice until after the four-year statute of limitations ran and that OTA apply equitable tolling during the COVID-19 pandemic.¹ However, the statute of limitations is mandatory and there is no equitable basis under California law for suspending the statute of limitations. (*Appeal of Estate of Gillespie, supra.*) Although there are some statutory exceptions, appellant has not asserted or shown evidence that they apply in this appeal.² (R&TC, § 19316.) Therefore, the statute of limitations bars appellant's claim for refund for the 2016 tax year.

¹ FTB Notice 2020-02 extended the statute of limitations for refunds due to the COVID-19 pandemic, allowing claims for refund where an applicable statute of limitations to file a timely claim expired during the period of March 12, 2020, through July 15, 2020, the FTB considered the claim timely if filed on or before July 15, 2020. However, this extension was not applicable to this claim as the applicable statute of limitations to file a timely claim for refund was April 15, 2021, falling outside the postponement period.


² As one example, for purposes of the Personal Income Tax Law, the statute of limitations may be tolled under certain circumstances during any period for which an individual taxpayer establishes a financial disability, which means that the taxpayer is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months. (R&TC, § 19316.) Appellant has not alleged or offered any evidence of a financial disability as a basis for tolling the statute of limitations.

HOLDING


The statute of limitations bars appellant’s claim for refund for the 2016 tax year.

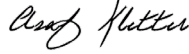
DISPOSITION

FTB’s action is sustained in full.

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Sara A. Hosey
Administrative Law Judge

We concur:

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Keith T. Long
Administrative Law Judge

DocuSigned by:

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Asaf Kletter
Administrative Law Judge

Date Issued: 10/24/2022