

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 21129362
EUGENE PITNICK FAMILY TRUST)
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OPINION

Representing the Parties:

For Appellant: Michael A. Kunisky, CPA

For Respondent: Eric R. Brown, Tax Counsel III

For Office of Tax Appeals: Westley Marcelo, Graduate Student Assistant

A. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Eugene Pitnick Family Trust (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$2,980 for the 2016 tax year. 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 is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant made the following estimated tax payments for the 2016 tax year: (1) \$900 on April 15, 2016; (2) \$1,200 on June 15, 2016; and (3) \$880 on January 3, 2017.
2. Appellant untimely filed a 2016 California fiduciary income tax return on October 11, 2021,¹ reporting no tax liability and overpayment of \$2,980. The tax return requested that the overpayment be applied to the 2017 tax year.

¹ The fiduciary’s signature and preparer’s signature on appellant’s 2016 tax return are dated April 1, 2017, and April 4, 2017, respectively; however, respondent states that it has no record of the tax return being filed prior to October 11, 2021.

3. Respondent processed appellant's 2016 tax return and treated it as a claim for refund. Respondent denied appellant's claim for refund because appellant did not file the return before the statute of limitations expired.
4. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed or made 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 by the extended due date; (2) four years from the due date for filing a return (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. In an action for refund, the taxpayer has the burden of proof to show entitlement to a refund by a preponderance of the evidence. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) For purposes of computing the statute of limitations on refund claims, estimated tax payments are deemed to have been paid on the last day prescribed for filing the return. (R&TC, § 19002(c)(2).)

The language of the statute of limitations must be strictly construed, and there is no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) A taxpayer's failure to file a claim for refund within the statutory period bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) The occasionally harsh results from fixed deadlines are redeemed by the clarity imparted to the legal obligation. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

Here, respondent received appellant's 2016 tax return on October 11, 2021, which reported tax overpayment of \$2,980, and respondent treated it as a claim for refund. Because the return was not timely filed pursuant to an extension, the four-year statute of limitations for filing a claim for refund for the 2016 tax year expired on April 15, 2021, which is four years from the due date of appellant's 2016 return. 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 estimated tax payments for 2016 are deemed paid.

Appellant does not dispute that the refund claim was untimely filed. Appellant instead argues that the tax return was untimely due to an unintentional, innocent oversight. The oversight was brought to appellant's attention when a notice for the 2020 tax year did not include

the \$2,980 credit from the 2016 tax year, which was carried over in subsequent tax years. Appellant asserts that the oversight was not an intentional disregard of rules and regulations, and asks that the refund claim be allowed based on reasonable cause.

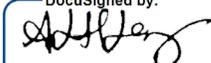
Although we are sympathetic to appellant’s circumstances, a taxpayer’s untimely filing of a claim for any reason bars a refund. (*Appeal of Benemi Partners, L.P., supra.*) The statute of limitations must be strictly construed and cannot be waived based on reasonable cause or tolled on an equitable basis. (*Ibid.*) Accordingly, respondent properly denied appellant’s refund claim because it was not timely filed within the statute of limitations.

HOLDING

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

DISPOSITION

Respondent’s action denying appellant’s claim for refund is sustained.

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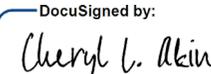
Andrea L.H. Long
Administrative Law Judge

We concur:

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Richard Tay
Administrative Law Judge

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Cheryl L. Akin
Administrative Law Judge

Date Issued: 10/31/2022