

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Appeal of:  
**C. HULTEN**

) OTA Case No. 22019575  
)  
)  
)  
)  
)

**OPINION**

Representing the Parties:

For Appellant: C. Hulten

For Respondent: Eric A. Yadao, Tax Counsel IV

C. AKIN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Hulten (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$4,016.61 for the 2016 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, Office of Tax Appeals (OTA) decides the matter based on the written record.

**ISSUE**

Whether appellant’s claim for refund for the 2016 tax year is barred by the statute of limitations.

**FACTUAL FINDINGS**

1. On May 24, 2017, appellant filed her 2016 California resident income tax return reporting total tax due of \$3,711 and a self-assessed underpayment of estimated tax penalty of \$76.
2. Appellant made payments to satisfy the balance due for the 2016 tax year (including interest and the self-assessed underpayment of estimated penalty) between May 15, 2017, and September 13, 2017.

3. Subsequently, on June 15, 2021, appellant filed an amended return for the 2016 tax year reporting \$0 total tax and requesting a refund of overpaid tax in the amount of \$3,711.
4. FTB accepted appellant's amended return as filed and determined that appellant had an overpayment of \$4,016.61 for the 2016 tax year.
5. On November 1, 2021, FTB denied appellant's claim for refund as untimely. This timely appeal followed.

### DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall 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 by the extended due date; (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 entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Here, appellant timely filed her 2016 return during the extension period on May 24, 2017. As a result, under the four-year statute of limitations, appellant had until May 24, 2021, to file a timely refund claim. However, appellant did not file her 2016 amended return requesting a refund until June 15, 2021, which is after the May 24, 2021 deadline. Thus, appellant is barred under the four-year statute of limitations from obtaining the requested refund.

As for the one-year statute of limitations, appellant's last payment for the 2016 tax year was made on September 13, 2017. One year from that date was September 13, 2018. Therefore, appellant is likewise barred under the one-year statute of limitations because her refund claim was filed on June 15, 2021, which is after September 13, 2018.

Appellant contends that her claim for refund should be treated as timely because she "applied for and received approval for an extension in March 2017 for [her] 2016 tax return which gave [her] until October 15, 2017[,] to file."<sup>1</sup> However, as noted above, the four-year statute of limitations is the later of: (1) four years from the date the return was filed, if the return was timely filed by the extended due date; or (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). Here, that

---

<sup>1</sup> OTA notes that California allows an automatic six-month extension to file a return within six months of the original due date. No written request is required, and the granting of the extension is conditioned solely upon the filing of a return within the automatic extension period. (R&TC, § 18567(a)(1); Cal. Code Regs., tit. 18, § 18567(a).)

would be the later of May 24, 2021, or April 15, 2021. As May 24, 2021, is the later of these two dates, it is the relevant date for the four-year statute of limitations. Because R&TC section 19306(a) expressly provides that the four-year statute of limitations is computed based on the date the return is filed (if filed during the extension period), not the extended due date of the return, the fact that appellant had until October 15, 2017, to timely file her 2016 tax return has no impact on this analysis.

Appellant also notes that her amended return was filed less than 30 days after the required deadline and asks whether she was entitled to any covid relief extensions. FTB did postpone the deadline for California taxpayers to claim a refund for the 2016 tax year due to the COVID-19 pandemic; however, this deadline was only postponed until May 17, 2021.<sup>2</sup> As this postponement date (i.e., May 17, 2021) is before the May 24, 2021 four-year statute of limitations date applicable to appellant based on her original filing date of May 24, 2017, this postponement does not help appellant here.

Finally, appellant contends that she is being penalized for not waiting until the last moment to file her 2016 tax return and that this outcome is inequitable. However, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) The language of the statute of limitations is explicit and must be strictly construed. (*Ibid.*) Aside from narrow statutory exceptions not relevant here, 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.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed

---

<sup>2</sup> See *State Postpones Deadlines For Claiming 2016 Tax Refunds to May 17, 2021, April 26, 2021*, available at: <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-may-17-2021.html>.

by the clarity imparted. (*Ibid.*) Thus, because appellant did not submit a timely refund claim for the 2016 tax year, she is not entitled to a refund.<sup>3</sup>

HOLDING

Appellant’s claim for refund for the 2016 tax year is barred by the statute of limitations.

DISPOSITION

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

DocuSigned by:  
*Cheryl L. Akin*  
1A8C8E38740B4D5...  
\_\_\_\_\_  
Cheryl L. Akin  
Administrative Law Judge

Date Issued: 11/10/2022

---

<sup>3</sup> Appellant also contends that “the State of California has twenty years to audit the tax paying public if the department feels there is cause but the tax payor only has four years” and again contends that this is inequitable. However, OTA notes that pursuant to R&TC section 19057(a), FTB must generally issue a proposed assessment within four years of the date the taxpayer files his or her California return. While there are certain exceptions to this general rule, such as where there is fraud or a final federal assessment, FTB generally had until May 24, 2021, four years from the date appellant filed her 2016 California return, to assess additional tax with respect to appellant’s 2016 tax year. Thus, OTA finds no such inequity as appellant contends here.