

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:
R. GASTON

) OTA Case No. 21108783
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OPINION

Representing the Parties:

For Appellant: R. Gaston

For Respondent: Anne Mazur, Specialist

J. JOHNSON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, appellant R. Gaston appeals an action by respondent Franchise Tax Board denying appellant’s claim for refund of \$1,424 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 and this matter is therefore decided based on the written record.

ISSUE

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

FACTUAL FINDINGS

1. Appellant untimely filed an original 2016 California tax return on September 13, 2021, reporting an overpayment of \$1,424.
2. Respondent processed the return and treated it as a refund claim. Respondent issued a notice to appellant indicating that respondent determined the return was filed after the statute of limitations expired for filing a claim for refund for the 2016 tax year, and therefore no refund would be issued.
3. Appellant then filed this timely appeal.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. When, as here, a timely return was not filed and all payments were made by the original due date of the return,¹ R&TC section 19306 provides that no credit or refund shall be allowed unless a claim for refund is filed within 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. (R&TC, § 19306(a).)

The due date for filing appellant's return for the 2016 tax year, without regard to any extensions, was April 15, 2017. (R&TC, § 18566.) Accordingly, as relevant here, the applicable statute of limitations under R&TC section 19306(a) for filing appellant's claim for refund for the 2016 tax year ended on April 15, 2021.² Appellant did not file a claim for refund for the 2016 tax year until September 13, 2021.

Appellant argues on appeal that the claim for refund, in the form of a tax return, was filed within the automatic extension period for filing a return, which ended on October 15, 2021, and therefore should be considered timely. However, while R&TC section 18567 and the accompanying regulation provide that taxpayers had an automatic extension to file their 2020 tax returns through October 15, 2021,³ the issue on appeal involves the statute of limitations for filing a claim for refund for the 2016 tax year, not the timeliness of an original return for 2020. Furthermore, R&TC section 19306 explicitly states that when a return is not timely filed, the four-year statute of limitations for filing a claim for refund is determined without regard to any extension of time for filing a return, so the automatic extension for filing an original 2016 tax return in 2017 has no bearing on the statute of limitations applicable to these facts. Accordingly, a claim for refund that is otherwise untimely under R&TC section 19306 cannot be considered timely based on the extension period for filing a return under R&TC section 18567.

¹ The payments at issue here were made through income tax withholdings during the 2016 tax year. For purposes of R&TC section 19306, income tax withheld is considered paid on the original filing due date for that tax year's return. (R&TC, § 19002(c)(1).)

² In response to the COVID-19 pandemic, respondent postponed the closing of the statute of limitations for refund claims that normally expired on April 15, 2021, such as appellant's refund claim, to May 17, 2021. (See <https://www.ftb.ca.gov/about-ftb/newsroom/2020-tax-year-extension-to-file-and-pay-individual.html>.) That postponement does not affect the analysis here because appellant filed a refund claim after May 17, 2021.

³ Similarly, for the 2016 tax year, there was an automatic extension to file a return through October 15, 2017.

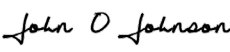
Appellant’s claim for refund, filed on September 13, 2021, was not filed within the applicable four-year statute of limitations, and therefore respondent properly denied appellant’s claim for refund.

HOLDING

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

DISPOSITION

Respondent’s action is sustained.

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John O. Johnson
Administrative Law Judge

Date Issued: 12/8/2022