

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
C. ALBRIGHT

) OTA Case No. 22019557
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OPINION

Representing the Parties:

For Appellant: C. Albright

For Respondent: David Muradyan, Tax Counsel III

S. BROWN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Albright (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$3,163 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 set forth under R&TC section 19306.

FACTUAL FINDINGS

1. Appellant did not timely file a California personal income tax return (return) with FTB for the 2016 tax year.
2. In October 2021,¹ appellant untimely filed his return for the 2016 tax year. On his return, appellant reported taxable income of zero, withholding credits of \$3,163, and an overpayment of tax of \$3,163.

¹ FTB indicates that October 15, 2021, is the date of filing, as indicated on a handwritten notation on the first page of the return. The handwritten date next to the signature on the return is October 4, 2021. On appeal, appellant does not appear to dispute that the filing date was October 15, 2021. For purposes of this appeal, whether the filing date occurred exactly on October 15 or a few days earlier is immaterial.

3. FTB accepted the return as filed and treated it as a claim for refund.
4. On October 27, 2021, FTB issued a notice denying the claim for refund because it was not filed prior to expiration of the statute of limitations.
5. 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 under 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. (R&TC, § 19306(a).) For purposes of computing the statute of limitations on refund claims, amounts withheld are deemed to have been paid on the original due date for filing the return. (R&TC, § 19002(c)(1).) 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, the first statute of limitations period is not applicable because appellant did not timely file his 2016 return under an extension of time to file. Regarding the four-year statute of limitations beginning from the return due date, FTB postponed the deadline for filing a claim for refund for the 2016 tax year until May 17, 2021,² but appellant's return was not timely filed by that deadline. Because withheld amounts are deemed paid on the original due date of April 15, 2017, the third period described above expired on April 15, 2018, more than three years before appellant filed his return. Consequently, appellant's claim for refund for the 2016 tax year was not timely filed under R&TC section 19306 and therefore is barred by the statute of limitations.

Appellant argues that the untimely filing was due to the fault of his accountant, who initially provided incorrect advice regarding appellant's filing obligations and subsequently

² Due to the COVID-19 pandemic, FTB postponed the deadline for filing claims for refund for the 2016 tax year until May 17, 2021. (See R&TC, § 18572; <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-03-state-tax-deadline-for-individuals-postponed-until-may-17-2021.html>; <https://www.ftb.ca.gov/about-ftb/newsroom/2020-tax-year-extension-to-file-and-pay-individual.html>.)

failed to complete tax filings on appellant’s behalf.³ However, the language of the statute of limitations is explicit and strictly construed, and a taxpayer’s failure to file a claim for refund, for whatever reason, within the statutory period bars that taxpayer from doing so at a later date. (*Appeal of Khan*, 2020-OTA-126P.) 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. (*Ibid.*) There is no reasonable cause exception or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

HOLDING

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

DISPOSITION

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

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Suzanne B. Brown
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Suzanne B. Brown
Administrative Law Judge

We concur:
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Ovsep Akopchikyan
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Ovsep Akopchikyan
Administrative Law Judge

DocuSigned by:
Tommy Leung
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Tommy Leung
Administrative Law Judge

Date Issued: 11/28/2022

³ Appellant also argues that late filings on behalf of himself, his partner, and their company incurred “thousands of dollars of penalties” and requests that the Office of Tax Appeals (OTA) “please consider waiving these additional penalties.” The current appeal does not provide OTA jurisdiction over any request for penalty abatement.