

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:

L. ERICKSON AND
J. ERICKSON

) OTA Case No. 220410185
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OPINION

Representing the Parties:

For Appellants:

L. Erickson
J. Erickson

For Respondent:

Nathan H. Hall, Tax Counsel III

K. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, L. Erickson and J. Erickson (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$1,639.39 for the 2016 tax year.

Appellants waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

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

FACTUAL FINDINGS

1. Appellants did not file a timely 2016 California income tax return.
2. On May 3, 2018, FTB issued a Request for Tax Return (Request) based on information that appellants received sufficient income to trigger the filing requirement. The Request provided appellants until June 6, 2018, to file a return, provide evidence that they already filed a return, or explain why no return was due. Appellants did not respond to the Request.

3. On July 2, 2018, FTB issued a notice of proposed assessment proposing a tax of \$5,971.00, plus accrued interest, and imposing a late filing penalty of \$606.75. After applying withholding credits of \$3,544, the NPA showed an outstanding tax liability of \$2,427. On October 1, 2018, FTB also issued a Notice of State Income Tax due reflecting the tax and penalty balance due, plus interest.
4. On November 1, 2018, appellants made a payment of \$3,216.58, satisfying the liability.
5. On February 28, 2022, appellants filed a joint 2016 California income tax return reporting a tax liability of \$1,186.00. Appellants remitted payment with the return in the amount of \$1,186.00, which was later refunded by FTB. FTB accepted the amount of self-assessed tax as reported on the return and processed it as a claim for refund in the amount of \$1,639.39. On March 21, 2022, FTB denied appellant's claim for refund.
6. This timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. The statute of limitation 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).) Taxpayers have the burden of proving that they are entitled to a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Here, there is no dispute that appellants failed to file a timely return pursuant to an extension of time to file. Appellants' claim for refund for 2016 was filed on February 28, 2022, which is more than one year after the claimed overpayments and more than four years after the due date of the return.¹ As such, appellants' claim for refund is barred by the statute of limitations unless an exception applies.

¹ Although the statute of limitations for a claim for refund is strictly construed under R&TC section 19306, respondent postponed the deadline for claiming 2016 refunds to May 17, 2021, due to the COVID-19 pandemic (See R&TC, § 18572; Franchise Tax Board, *State Postpones Deadlines for Claiming 2016 Tax Refunds to May 17, 2021*, news release (Apr. 26, 2021) <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>.) Appellants' return was not filed until February 28, 2022. As such, the extended deadline does not affect our analysis.

On appeal, appellants asserts that a double standard exists and if they owed taxes, they would also owe penalties and interest. Appellants assert that this creates an unfair result. Thus, it appears that appellant asserts that they are owed a refund for equitable reasons. However, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) A taxpayer's untimely filing of a claim for refund for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) This is true even when it is later shown that the tax was not owed in the first place. (*U.S. v. Dalm* (1990) 494 U.S. 596, 602.) 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. (*Appeal of Khan*, 2020-OTA-126P.) Consequently, appellants' claim for refund for 2016 is barred by the statute of limitations.

HOLDING

Appellants' claim for refund for the 2016 tax year is barred by the statute of limitations.

DISPOSITION

Respondent's denial of appellants' claim for refund for the 2016 tax year is sustained.

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Keith T. Long
Administrative Law Judge

We concur:

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Josh Lambert
Administrative Law Judge

DocuSigned by:



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Sara A. Hosey
Administrative Law Judge

Date Issued: 12/5/2022