

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
M. SAUCEDO

) OTA Case No. 220510392
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OPINION

Representing the Parties:

For Appellant: M. Saucedo

For Respondent: Nancy E. Parker, Tax Counsel IV

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, M. Saucedo (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$2,393.59 for the 2016 taxable year.

Appellant waived the right to an oral hearing; therefore, the Office of Tax Appeals (OTA) decides the matter based on the written record.

ISSUE

Is appellant’s claim for refund barred by the statute of limitations for filing a claim for refund?

FACTUAL FINDINGS

1. Appellant did not file a timely California tax return for 2016.
2. Appellant’s employer reported wages paid to appellant totaling more than the threshold to require filing a tax return for 2016.
3. FTB estimated appellant’s tax liability based on the reported wages and issued a Notice of Proposed Assessment (NPA) proposing to assess \$1,814.00 in tax,¹ a \$453.50 late-

¹ After applying payments and credits of \$4,492 to appellant’s total tax of \$6,306, FTB proposed tax due of \$1,814.

- filing penalty, a \$1,576.50 demand penalty, an \$84.00 filing enforcement fee, and applicable interest.²
4. Appellant did not respond to the NPA by the specified deadline, and it became final.
 5. FTB took collection actions and collected \$4,094.21 between December 19, 2018, and March 13, 2019.³
 6. On February 4, 2022, appellant filed a 2016 California tax return reporting tax of \$4,771 and tax withheld of \$4,492. Appellant reported tax due of \$279.
 7. FTB accepted appellant's return as filed and reduced the tax, the late-filing penalty, and the demand penalty, which resulted in an overpayment of \$2,393.59. FTB treated appellant's return as a claim for refund of the overpayment amount and denied it based on the expiration of the statute of limitations.
 8. Appellant timely appealed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. The statute of limitations provides, in pertinent 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 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).) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, *supra*, citing *U. S. v. Brockamp* (1997) 519 U.S. 347.) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, *supra*.) 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.*) This is true even when it is later shown that the tax was not owed in the first place.

² Penalties and the filing enforcement fee are not at issue in this appeal. Appellant only appealed FTB's denial of her claim for refund.

³ FTB wrote off a balance of \$47.66 on May 30, 2019. FTB included that amount as a payment by appellant and calculated total payments of \$4,141.87.

(*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Appellant contends that she filed her 2015 and 2016 tax returns together but “the 2015 [return] was accepted and the 2016 [return] was evidently lost.” Appellant further asserts that \$4,108.03 was garnished and sent to FTB on October 24, 2018, which she claims places the payment within the statute of limitations. Lastly, appellant contends that there was a transfer from the IRS to FTB on February 18, 2022, which would be considered a payment made within the statute of limitations.

With respect to appellant’s first contention that her 2016 return was filed but FTB lost it, appellant has not presented any evidence showing she mailed or otherwise filed the return. OTA notes that the signature date on the 2015 return is January 24, 2022, not a date within four years of the due date of the return. Moreover, FTB’s records show that the return was filed on February 4, 2022. Appellant has not established that the filing date for the return was earlier than February 4, 2022.

Because appellant did not file a return within the extended filing deadline, the first four-year statute of limitations period does not apply. The second four-year statute of limitations period expired on May 17, 2021, four years after the original due date for the 2016 return, as extended by FTB for taxable year 2016 claims for refund.⁴ Based on the record, appellant’s final payment for the 2016 taxable year was made on March 13, 2019, and the statute of limitations under the one-year statute of limitations period expired one year later, on March 13, 2020, well before the date appellant filed her return.

Appellant claims a payment was made via garnishment on October 24, 2018. However, the FTB payment record for appellant’s 2015 taxable year shows no payment made on October 24, 2018, the date on which FTB issued its Earnings Withholding Order For Taxes (Order) to appellant’s employer. The Order included two taxable years, 2015 and 2016, so payments under the Order would have been partially credited to each taxable year, not all to 2016 as appellant suggests. FTB credited appellant’s 2016 tax account with payments pursuant to the Order starting December 19, 2018, and ending with the last payment on March 13, 2019.

⁴ <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>

Even if appellant’s contention were true, the statute of limitations for a payment made on October 24, 2018, would have expired one year later, on October 24, 2019.


Regarding appellant’s third contention that the IRS transferred funds to FTB on February 18, 2022, the record does not show that a payment was transferred from the IRS to appellant’s 2016 tax account. Rather, on February 18, 2022, FTB applied a payment of \$2,797.42 to appellant’s 2017 tax account. Thus, appellant has not established a basis for a refund of that amount for taxable year 2016.

HOLDING

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


DISPOSITION

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


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Teresa A. Stanley
Administrative Law Judge

We concur:

DocuSigned by:

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Amanda Vassigh
Administrative Law Judge

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Eddy Y.H. Lam
Administrative Law Judge

Date Issued: 3/21/2023