

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
J. MOTA

) OTA Case No. 220610625
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OPINION

Representing the Parties:

For Appellant: J. Mota

For Respondent: Leoangelo C. Cristobal, Tax Counsel

R. TAY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Mota (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$5,688.10 for the 2016 tax year.

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

ISSUE

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

FACTUAL FINDINGS

1. Appellant did not file a timely California income tax return for the 2016 tax year.
2. Based on information respondent received from appellant’s employer, respondent issued a Demand for Tax Return for the 2016 tax year, which appellant did not respond to. Since appellant did not respond, respondent estimated appellant’s tax liability and issued a Notice of Proposed Assessment (NPA).
3. Appellant did not respond to the NPA, so respondent’s proposed assessment became a final assessment.
4. Respondent initiated collection action, and received payments from July 24, 2018, through March 20, 2019, to satisfy appellant’s balance.

5. Appellant filed a 2016 California income tax return on March 11, 2022, showing no tax due, and requested a refund of tax overpayments.
6. Respondent denied appellant's claim for refund on April 11, 2022.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306(a), which 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).) 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.)

The language of the statute of limitations must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) A taxpayer's failure to file a claim for refund within the statutory period bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) The occasional harshness from fixed deadlines is redeemed by the clarity imparted to legal obligations. (*Ibid.*)

Here, appellant did not file a timely return; thus, the four-year statute of limitations expired on April 15, 2021 (four years after the original due date, April 15, 2017). Respondent, however, postponed the statute of limitations to file a claim for refund for the 2016 tax year to May 17, 2021.¹ Consequently, May 17, 2021, is the relevant date for statute of limitations purposes.²

¹ See *State Postpones Deadline 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>.

² The one-year statute of limitations expired July 15, 2020, which is earlier than May 17, 2021. Since respondent received appellant's latest overpayment of tax from its collection actions on March 20, 2019, the statute of limitations expired for the latest payment on March 20, 2020 (which respondent extended to July 15, 2020 because of the COVID-19 pandemic), and for all other payments, prior to that date. (See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-3-state-postpones-tax-deadlines-until-july-15-due-to-the-covid-19-pandemic.html>; FTB Notice 2020-02.)

Appellant filed his 2016 California income tax return, which respondent treated as a claim for refund, on March 11, 2022, well after the statute of limitations expired. Consequently, appellant's claim for refund is untimely.

R&TC section 19316 provides a narrow exception for suspending the statute of limitations where an individual taxpayer is deemed "financially disabled." Under this provision, the time for filing a claim for refund may be suspended if the taxpayer is considered financially disabled. The taxpayer must show: (1) inability to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months; and (2) there is no spouse or other person who is legally authorized to act on the individual taxpayer's behalf in financial matters during the relevant period.


Here, appellant asserts that he was in some financial difficulty, which is why he did not file a timely income tax return. However, he does not assert, and there is no evidence in the record that shows, he qualified as "financially disabled" for purposes of R&TC section 19136. Accordingly, OTA has no basis to grant such an exception.

HOLDING


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


DISPOSITION

Respondent’s action is sustained in full.

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Richard Tay
Administrative Law Judge

We concur:

DocuSigned by:

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Daniel K. Cho
Administrative Law Judge

DocuSigned by:

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Kenneth Gast
Administrative Law Judge

Date Issued: 2/24/2023