

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 220811137
A. AYALA AND)
L. AYALA)
_____)

OPINION

Representing the Parties:

For Appellants: A. Ayala and L. Ayala

For Respondent: Josh Ricafort, Tax Counsel

For Office of Tax Appeals: James Filling, Graduate Student Assistant

A. KLETTER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, A. Ayala and L. Ayala (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants’ claim for refund of \$1,988.55 for the 2015 tax year.

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

ISSUE

Whether the statute of limitations bars appellants’ claim for refund.

FACTUAL FINDINGS

1. Appellants did not timely file a 2015 California individual income tax return (return).
2. FTB issued appellants a Notice of Proposed Assessment (NPA) for the 2015 tax year that went final. On March 10, 2020, FTB transferred a 2019 tax year overpayment to appellants’ 2015 account. FTB also garnished appellants’ wages and received payments totaling \$14,106.45. FTB received appellants’ last two payments on September 9, 2021, and July 6, 2022.

3. On July 5, 2022, appellants filed their 2015 return, reporting a total tax of \$15,224. FTB accepted appellants' return and determined that they were requesting a refund of amounts paid in excess of their total tax liability, plus any penalties, fees, and interest. FTB transferred appellants' last two payments totaling \$1,112.99 to their 2016 account.
4. FTB denied appellants' claim for refund of \$1,988.55 remaining in their 2015 account, citing the statute of limitations.
5. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed or made 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 by the extended due date; (2) four years from the due date for filing a return (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. FTB published guidance postponing to July 15, 2020, the deadline for claims for refunds that expired between March 12, 2020, through July 15, 2020 (postponement period).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.) The language of the statute of limitations must be strictly construed, and there is no reasonable cause or equitable basis for suspending the statutory period. (*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.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

Because appellants did not timely file their return, the four-year statute of limitations is determined from the due date of appellants' return, April 15, 2016. Four years from April 15, 2016, is April 15, 2020, within the postponement period. The claim for refund deadline was therefore July 15, 2020. Here, appellants untimely filed their 2015 return on July 5, 2022.

Under the one-year statute of limitations period, appellants made the last two payments within a year of filing their 2015 claim for refund on July 5, 2022. The last two payments were

¹ See FTB Notice 2020-02, <https://www.ftb.ca.gov/tax-pros/law/ftb-notice/2020-02.pdf>.

transferred and applied to the 2016 tax year. The remainder of appellants’ payments were made more than a year prior to filing their claim. Therefore, OTA finds no error in FTB’s determination that appellants’ claim for refund was untimely.

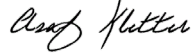
Appellants request that OTA consider their good faith and on-going effort to resolve the unpaid balances. Appellants also assert they filed their 2015 return after addressing issues with their former tax preparer. However, appellants’ claim was untimely under R&TC section 19306(a). A taxpayer’s untimely filing of a claim for any reason bars a refund. (*Appeal of Benemi Partners, L.P., supra.*) The statute of limitations must be strictly construed and cannot be tolled on an equitable basis or waived based on reasonable cause. (*Ibid.*)

HOLDING

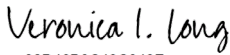
The statute of limitations bars appellants’ claim for refund.

DISPOSITION

FTB’s action in denying appellants’ claim for refund is sustained.

DocuSigned by:

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Asaf Kletter
Administrative Law Judge

We concur:

DocuSigned by:

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Veronica I. Long
Administrative Law Judge

DocuSigned by:

A11783ADD49442B
Huy “Mike” Le
Administrative Law Judge

Date Issued: 4/6/2023