

2. FTB issued appellant a Notice of Proposed Assessment (NPA) for the 2017 tax year that went final. FTB garnished appellant's wages and received four payments between January 12, 2021, and February 9, 2021, totaling \$1,921.92.²
3. On August 15, 2022, appellant filed his 2017 return requesting a \$1,442 refund. FTB determined that appellant was claiming a refund of all amounts paid exceeding his total tax liability.³ FTB denied the claim for refund because appellant filed it after the statute of limitations expired.
4. This timely appeal followed. On appeal, appellant only contests the claim denial of \$1,921.92 in garnished wages.

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 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. The taxpayer has the burden of proof in showing that the claim is timely and that a refund should be granted. (*Appeal of Cornerstone Compounding Pharmacy, Inc.*, 2021-OTA-196P.)

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*U. S. v. Brockamp* (1997) 519 U.S. 347, 351). The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P (*Benemi*)). 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.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Appellant does not contest – and OTA finds no error in – FTB's determinations that: (1) appellant's claim for refund was untimely under the four-year statute of limitations; and (2) appellant's claim for refund was untimely under the one-year statute of limitations as to the

² On September 23, 2022, FTB discharged the remaining balance of \$9.82 and waived the cost collection recovery fee.

³ On his return, appellant did not include the amounts collected by FTB.

withholding payments made on his behalf by his employer. Appellant's sole contention is that his payments through wage garnishments should be refunded.

Appellant filed his claim for refund on August 15, 2022. He made no payments in the year prior to filing his claim (i.e., between August 15, 2021, and August 15, 2022). His last payment of \$136.02 was collected on February 9, 2021, outside of the one-year statute of limitations period. Therefore, OTA finds no error in FTB's determination that appellant's claim was untimely as to the wage garnishments.


Appellant's claim was untimely under R&TC section 19306(a). 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. (*Benemi, supra.*)

HOLDING

The statute of limitations bars appellant's claim for refund for the 2017 tax year.

DISPOSITION

FTB's action in denying appellant's claim for refund is sustained.

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Asaf Kletter
Administrative Law Judge

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