

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
L. HARRIS

) OTA Case No. 220710776
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OPINION

Representing the Parties:

For Appellant: L. Harris

For Respondent: Hanna Cho, Tax Counsel III

A. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, L. Harris (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$838.18 for the 2016 tax year.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single administrative law judge. (Cal. Code Regs., tit. 18, § 30209.1.) Appellant 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 appellant’s claim for refund.

FACTUAL FINDINGS

1. On October 15, 2017, appellant filed a timely 2016 tax return within the automatic extension period. Appellant reported tax due but did not remit any payment.
2. Subsequently, respondent demanded payment from appellant and imposed a late payment penalty. Appellant entered into an installment agreement with respondent and made monthly payments between August 13, 2018, and August 13, 2019. On February 8, 2021, respondent transferred payments from appellant’s 2018 and 2019 tax year accounts. Respondent received appellant’s final payment on March 26, 2021.

3. On April 15, 2022, appellant filed a 2016 amended tax return. Appellant corrected her adjusted gross income by \$15,406.00, which reduced the tax to \$695.00. Respondent processed the amended tax return, reduced the tax to \$695.00, and correspondingly reduced the late payment penalty and interest. These actions resulted in an overpayment to appellant's 2016 tax year account in the amount of \$838.18.
4. Respondent treated appellant's amended tax return as a claim for refund. Respondent sent a letter to appellant stating that it could not issue a refund or credit of the overpayment because the statute of limitations had expired.
5. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed unless a claim for refund is filed within the later of: (1) four years from the date the return was filed, if filed within the extended filing period; (2) four years from the due date of the return, without regard to extensions; or (3) one year from the date of the overpayment. The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

Here, appellant timely filed a 2016 tax return on October 15, 2017, which was within the extended filing period.¹ Under the four-year statute of limitations, appellant was therefore required to file the refund claim no later than October 15, 2021.² Under the alternative one-year statute of limitations, appellant was required to file the refund claim no later than March 26, 2022, which is one year from the date of appellant's last payment to respondent. Appellant did not file a 2016 amended tax return until April 15, 2022, which is after both the four-year and one-year statutes of limitations.

Appellant indicates that she wanted to file a 2016 amended tax return in 2020 but her tax preparer's office was closed due to COVID-19, and she could not file her 2016 amended tax

¹ Respondent allows an automatic six-month extension to file if the tax return is filed within six months of the original due date. (Cal. Code Regs., tit. 18, § 18567.)

² Following the IRS, FTB postponed the four-year statute of limitations for claiming a refund from April 15, 2021, to May 17, 2021, due to the COVID-19 pandemic. (See R&TC, § 18572; Franchise Tax Board, State Postpones Deadline 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>.)

return until the tax preparer's office reopened. Appellant concedes that her amended return was submitted after the statute of limitations expired. She asserts, however, that 2016 was the first year she had income from self-employment, and she now needs her refund.

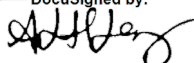
Although the Office of Tax Appeals is sympathetic to appellant's situation, it cannot overlook the tardiness of a taxpayer's refund claim; the Office of Tax Appeals can only grant relief where the law specifically allows. (See *Appeal of Xie*, 2018-OTA-076P.) The taxpayer's failure to file a claim for refund within the statute of limitations, for any reason, bars them from later receiving a refund. (*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.) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Jacqueline Mairghread Patterson Trust, supra.*) For the reasons described above, appellant's claim for refund is not allowed under the statute of limitations described in R&TC section 19306(a).

HOLDING

The statute of limitations bars appellant's claim for refund.

DISPOSITION

Respondent's action denying appellant's claim for refund is sustained.

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Andrea L.H. Long
Administrative Law Judge

Date Issued: 5/15/2023