

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
M. BARRETT

) OTA Case No. 221212153
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OPINION

Representing the Parties:

For Appellant:

M. Barrett

For Respondent:

Ellen L. Swain, Tax Counsel IV

For Office of Tax Appeals:

Zack Sabbagh, Graduate Student Assistant

K. Long, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Barrett (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$1,497 for the 2015 tax year.

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

ISSUE

Whether appellant’s claim for refund for the 2015 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant did not file a timely California income tax return for the 2015 tax year.
2. On September 15, 2021, appellant filed an untimely return reporting a tax liability of \$579. After applying withholding credits of \$2,076, appellant claimed a refund of \$1,497.

3. On October 31, 2022, FTB treated the \$1,497 in overpayment as a claim for refund. FTB issued a letter informing the appellant that the claim for refund was barred by the statute of limitations.
4. This timely appeal follows.

DISCUSSION

R&TC section 19306(a) 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. A taxpayer has the burden of proving entitlement to a refund. (*Appeal of Jali, LLC*, 2018-OTA-052P.)

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*U.S. v. Brockamp* (1997) 519 U.S. 347 [no intent to apply equitable tolling in a federal tax statute of limitations].) The language of the statute of limitations must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Such fixed deadlines may appear harsh because they can be missed, but the resulting occasional harshness is redeemed by the clarity of the legal obligation imparted. (*Appeal of Khan*, 2020-OTA-126P.) A taxpayer's failure, for whatever reason, to file a claim for refund or credit within the statutory period prevents the taxpayer from doing so at a later date. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) It is well established that each taxpayer has a personal, non-delegable obligation to ensure the timely filing of a tax return. (*U.S. v. Boyle* (1985) 469 U.S. 241, 251-252; *Appeal of Quality Tax & Financial Services, Inc.*, 2018-OTA-130P.)

Appellant's 2015 return was not filed until September 15, 2021. As appellant failed to file a return by the due date of April 15, 2016, or the automatic extension period, the four-year statute of limitations to file a claim for refund began to run on the original due date of appellant's 2015 return and expired four years later, on April 15, 2020. (R&TC, § 19306(a).) Appellant's claim for refund is therefore barred under the four-year statute of limitations period.

The one-year statute of limitations only applies to payments made within one year of the date the claim for refund is filed. (R&TC, § 19306(a).) Here, FTB's record indicates that the overpayment was credited on April 15, 2016 (i.e., the due date of the return). In addition, withholding taxes are deemed paid on the original due date of that year's return. (R&TC,

§ 19002(c)(1).) Appellant provides no evidence to dispute FTB's records or show any payments made after the fact. Because appellant's claim for refund was not filed until September 15, 2021, which is more than one-year later, appellant's claim for refund is also barred under the one-year statute of limitations.

On appeal, appellant asserts that the denial of the return, based on the above statute of limitations concern, should be dismissed due to the late filing being the fault of H&R Block who did not timely file appellant's tax return. Appellant further asserts that the return was promptly filed after realizing the mistake and the return was filed not that long after the expiration of the statute of limitations. However, as stated previously, a taxpayer has a personal, non-delegable obligation to ensure the timely filing of a tax return. (*U.S. v. Boyle* (1985), *supra*; *Appeal of Quality Tax & Financial Services, Inc.*, *supra*.) Neither health nor any other unfortunate circumstance can extend the statute of limitations for filing a claim for refund.¹ (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) The statute of limitations for the taxpayer is strictly construed and there is no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P.*, *supra*.) Accordingly, because appellant did not timely file a refund claim under either the four-year or one-year statute of limitations for 2015, appellant is barred from seeking a refund.

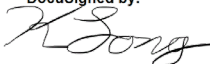
¹ However, R&TC section 19316 provides that the statute of limitations may be suspended for taxpayers who establish that they were financially disabled within the meaning of that statute. Appellant does not contend, and the record does not show, that R&TC section 19316 is applicable.

HOLDING

Appellant’s claim for refund for the 2015 tax year is barred by the statute of limitations.

DISPOSITION

FTB’s denial of appellant’s claim for refund for the 2015 tax year is sustained.

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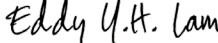
Keith T. Long
Administrative Law Judge

We concur:

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Josh Lambert
Administrative Law Judge

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Eddy Y.H. Lam
Administrative Law Judge

Date Issued: 5/17/2023