

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
C. COLLINS

) OTA Case No. 221011611
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OPINION

Representing the Parties:

For Appellant: C. Collins

For Respondent: Tristen Thalhuber, Tax Counsel

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Collins (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claims for refund of \$152.00 for the 2010 taxable year, \$309.89 for the 2012 taxable year, and \$870.36 for the 2014 taxable year.

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

ISSUE

Is appellant entitled to additional refunds for taxable years 2010, 2012, and 2014?

FACTUAL FINDINGS

2010 Taxable Year

1. Appellant filed a 2010 California Resident Income Tax Return on May 27, 2022. On the return appellant reported total tax of \$0 and requested a refund of overpaid tax. Appellant’s withholdings of \$152 were deemed paid on April 15, 2011.
2. FTB denied appellant’s claim for refund of \$152 based on the expiration of the statute of limitations.

2012 Taxable Year

3. Because appellant did not file a timely return, FTB issued a Notice of Proposed Assessment (NPA) estimating appellant's tax liability for 2012. After the liability became final, FTB collected a total of \$1,056.58 between March 10, 2015, and May 1, 2015. Appellant made a final payment of \$110.00 with the tax return filed on July 12, 2022. Appellant's withholdings of \$98.00¹ were deemed paid on April 15, 2013.
4. Appellant filed a 2012 California Resident Income Tax Return on July 12, 2022. On the return appellant reported total tax of \$487.
5. FTB treated appellant's tax return as a request for refund of \$420.13.²
6. FTB refunded to appellant the final payment of \$110.00 made on July 12, 2022, plus \$0.24 of interest and denied the remainder of appellant's claim for refund of \$309.89 due to the expiration of the statute of limitations.

2014 Taxable Year

7. Because appellant failed to file a timely return, FTB issued an NPA estimating appellant's tax liability for 2014. After the liability became final, FTB collected \$824.50 on January 15, 2017. Appellant's withholdings of \$115³ were deemed paid on April 15, 2015.
8. Appellant filed a 2014 California Nonresident or Part-Year Resident Income Tax Return on July 13, 2022. On the return appellant reported total tax of \$59 and requested a refund of overpaid tax. FTB processed appellant's return and revised the tax liability from \$59 to \$61.

¹ While appellant reported withholdings of \$106 on her return, FTB's payment ledger and NPA reflect withholdings of only \$98.

² Appellant's withholdings and payments totaling \$1,264.58 (\$1,056.58 + \$98.00 + \$110.00) plus allowed interest of \$0.24 and FTB's write-off of \$2.22, minus the tax liability of \$487.00, total interest charged of \$30.91, a collection cost recovery fee of \$194.00, and a late-filing penalty of \$135.00.

³ While appellant reported withholdings of \$228 on her return, FTB's payment ledger and NPA reflect withholdings of only \$115.

9. FTB treated appellant's tax return as a request for refund of \$870.36,⁴ which it denied due to the expiration of the statute of limitations.
10. Appellant timely appealed the denial of her claims for refund for all three taxable years.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. The statute of limitations provides, in pertinent 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 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. (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.) Amounts withheld from wages and estimated tax payments are deemed paid on the original due date of the return. (R&TC, § 19002(c).)

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P, citing *U.S. v. Brockamp* (1997) 519 U.S. 347 [no intent to equitably toll the federal tax statute of limitations].) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, *supra.*) 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.*) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

For taxable year 2010, appellant failed to file a timely return, thus the four-year statute of limitations to file a claim for refund began to run on the original due date of the return on April 15, 2011, and expired four years later, on April 15, 2015, more than seven years before appellant filed her return. The \$152 that was withheld by appellant's employer was deemed to be paid on the due date for the return, April 15, 2011. (R&TC, § 19002(c)(1).) Therefore, the one-year statute of limitations expired one year later, on April 15, 2012. Appellant's claim for

⁴ Appellant's total payments and withholdings of \$939.50 (\$824.50 + \$115.00), plus FTB's write off of \$7.11, minus the tax liability of \$61.00, and a demand penalty of \$15.25.

refund for 2010, filed on May 27, 2022, was properly denied due to the expiration of the statute of limitations.

For taxable year 2012, appellant failed to file a timely return, thus the four-year statute of limitations to file a claim for refund began to run on the original due date of the return on April 15, 2013, and expired four years later, on April 15, 2017, more than five years before appellant filed her return. The \$98.00 that was withheld by appellant's employer was deemed paid on the due date for the return, April 15, 2013. (R&TC, § 19002(c)(1).) The one-year statute of limitations for that payment expired on April 15, 2014. Appellant also made payments totaling \$1,056.58. The latest of these payments was made on May 1, 2015. As a result, the one-year statute of limitations expired on May 1, 2016, or earlier, with respect to these payments. Appellant made a payment of \$110.00 when she filed the 2012 return on July 12, 2022. Appellant's claim for refund with respect to that payment was properly refunded by FTB. The remainder of appellant's claim for refund, filed on July 12, 2022, was properly denied due to the expiration of the statute of limitations.

For taxable year 2014, appellant failed to file a timely return, thus the four-year statute of limitations to file a claim for refund began to run on the original due date of the return on April 15, 2015, and expired four years later, on April 15, 2019, more than three years before appellant filed her return. The \$115.00 that was withheld by appellant's employer was deemed to be paid on the due date for the return, April 15, 2015. (R&TC, § 19002(c)(1).) The one-year statute of limitations for that payment expired on April 15, 2016. FTB collected a payment of \$824.50 on January 15, 2017. As a result, the one-year statute of limitations expired on January 15, 2018, with respect to that payment. Appellant's claim for refund for 2014, filed on July 13, 2022, was properly denied due to the expiration of the statute of limitations.


Appellant asserts that her husband was "ensnared in a scam scheme," and appellant would appreciate OTA's help. Appellant further contends that she could use the money to pay taxes that she owes. Appellant makes reasonable cause arguments, sharing that 2014 was a bad year for her. However, as noted above, there is no reasonable cause or equitable basis for tolling the statute of limitations. Despite the potentially harsh effect on appellant, the statute of limitations must be strictly construed.

HOLDING


Appellant is not entitled to additional refunds for taxable years 2010, 2012, or 2014.


DISPOSITION

FTB’s actions are sustained.

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Teresa A. Stanley
Administrative Law Judge

We concur:

DocuSigned by:

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Keith T. Long
Administrative Law Judge

DocuSigned by:

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Amanda Vassigh
Administrative Law Judge

Date Issued: 5/26/2023