

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 221011691
K. RYE AND)	
L. RYE)	
)	

OPINION

Representing the Parties:

For Appellants:	K. Rye and L. Rye
For Respondent:	Tristen Thalhuber, Graduate Legal Assistant

A. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, K. Rye and L. Rye (appellants) appeal an action by the Franchise Tax Board (respondent) denying appellants' claim for refund of \$694 for the 2017 tax year.

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

ISSUE

Whether appellants timely filed a claim for refund for the 2017 tax year.

FACTUAL FINDINGS

1. Appellants untimely filed their 2017 return on August 26, 2022. Appellants reported total tax of \$254, income tax withholdings of \$948, and an overpayment of \$694.
2. Respondent accepted the return as filed and treated it as a claim for refund. Respondent denied the claim.
3. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund will 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. For purposes of the one-year statute of limitations for refund claims, any tax deducted and withheld during any calendar year is deemed to have been paid on the filing deadline for that tax year. (R&TC § 19002(c)(1).) The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*Appeal of Cornbleth*, 2019-OTA-408P.) A 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.) 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 Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) Taxpayers have the burden of proof in showing entitlement to a refund and that the claim is timely. (*Ibid.*)

Here, appellants filed their 2017 return on August 26, 2022. To claim an overpayment, appellants’ return was due four years from the original due date of the return (i.e., April 15, 2018), which is April 15, 2022. Appellants did not file until four months after the April 15, 2022 deadline. Under the alternative one-year statute of limitations, appellants must have filed the refund claim no later than April 15, 2019. Appellants’ claim for refund also falls outside of the one-year deadline.

Appellants argue that their return was “on extension for 2017 which would bring filing deadline to Oct. 15th 2018 [sic].” As such, appellants contend that filing their return on August 26, 2022, falls within four years from the extended filing period.

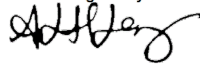
Appellants misunderstand the law. Although appellants are correct that they could have timely filed their return by October 15, 2018, appellants did not do so. (See Cal. Code Regs., tit. 18, § 18567 [respondent allows an automatic six-month extension to file if the return is filed within six months of the original due date].) Because appellants did not file their return until August 22, 2022, which is outside of the extended filing period, the statute of limitations that allows a claim for refund from four years from the extended filing period does not apply. Accordingly, appellants’ refund claim is untimely and the refund of \$694 is barred by the statute of limitations.

HOLDING

Appellants did not timely file a claim for refund for the 2017 tax year.


DISPOSITION

Respondent’s action denying the claim for refund is sustained.

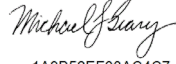
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Andrea L.H. Long
Administrative Law Judge

We concur:

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Sheriene Anne Ridenour
Administrative Law Judge

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Michael F. Geary
Administrative Law Judge

Date Issued: 5/25/2023