

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF, )  
 )  
C. KEVIE, ) OTA NO. 221011734  
 )  
 APPELLANT. )  
 )  
 )

## TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Wednesday, July 19, 2023

Reported by:  
ERNALYN M. ALONZO  
HEARING REPORTER

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Transcript of Electronic Proceedings,  
taken in the State of California, commencing  
at 9:38 a.m. and concluding at 9:49 a.m. on  
Wednesday, July 19, 2023, reported by Ernalyn M.  
Alonzo, Hearing Reporter, in and for the State  
of California.

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APPEARANCES:

Administrative Law Judge: JUDGE TERESA STANLEY

For the Appellant: C. KEVIE

For the Respondent: STATE OF CALIFORNIA  
FRANCHISE TAX BOARD

DAVID MURADYAN  
NANCY PARKER

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I N D E X

E X H I B I T S

(Appellant's Exhibit 1 was received at page 6.)

(Department's Exhibits A-C were received at page 6.)

P R E S E N T A T I O N

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By Ms. Kevie 7

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By Ms. Kevie 11

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California; Wednesday, July 19, 2023

9:30 a.m.

JUDGE STANLEY: Let's go ahead and go on the record.

And this is Judge Stanley speaking, and I am the single judge hearing this matter that's being decided under our -- under the Office of Tax Appeals Small Case Program. We -- the Office of Tax Appeals is an independent agency. It is not associated with the Franchise Tax Board or any other tax agency.

The Office of Tax Appeals is not a court. It is an independent appeals agency staffed with its own tax experts. The only evidence in the Office of Tax Appeals' record is what has been submitted so far in this appeal. This is, as I said, the Appeal of Kevie, Case Number 221011734. The date is July 19th, 2023, and the time now is 9:38.

I'm going to ask the parties to identify themselves on the record.

So once again, Appellant, please identify yourself.

You're muted.

MS. KEVIE: Hi. This is Carrie Kevie.

JUDGE STANLEY: Thank you.

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And Franchise Tax Board.

MR. MURADYAN: Good morning. This is David Muradyan.

MS. PARKER: Good morning. This is Nancy Parker.

JUDGE STANLEY: Thank you.

The issue today is whether Appellant's 2017 claim for refund is barred by the statute of limitations.

Do you agree that's the issue, Ms. Kevie?

MS. KEVIE: Yes, I do. This is Carrie speaking.

JUDGE STANLEY: And Mr. Muradyan?

MR. MURADYAN: Yes, this is David Muradyan speaking, and I agree that that's the issue.

JUDGE STANLEY: Okay. And this is Judge Stanley speaking. Appellant submitted one exhibit, and at the prehearing conference the Franchise Tax Board did not object to Exhibit 1. So it's going to be admitted into evidence without objection, and no additional exhibits were submitted by Appellant.

(Appellant's Exhibit 1 was received in evidence by the Administrative Law Judge.)

FTB's exhibits are A through C, and Appellant had no objection to those at the prehearing conference so those are also admitted without objection.

(Department's Exhibits A-C were received in evidence by the Administrative Law Judge.)

1 JUDGE STANLEY: And Franchise Tax Board also has  
2 not submitted any additional information.

3 So we have one witness today. Is that correct,  
4 Ms. Kevie, just yourself?

5 MS. KEVIE: Yes, that's correct. This is Carrie.

6 JUDGE STANLEY: Okay. Then I'm going to ask that  
7 you raise your right hand.

8  
9 C. KEVIE,  
10 produced as a witness, and having been first duly sworn by  
11 the Administrative Law Judge, was examined and testified  
12 as follows:

13  
14 JUDGE STANLEY: Okay. Thank you.

15 And just for any viewing audience, I would like  
16 to point out it's not taking sides to swear in one side  
17 and not the other, but Ms. Kevie will be providing  
18 testimony that can be considered evidence if it's made  
19 under oath. Franchise Tax Board will not be testifying.  
20 They will only be arguing.

21 So, Ms. Kevie, you can begin your presentation  
22 whenever you're ready.

23  
24 PRESENTATION

25 MS. KEVIE: This is Carrie speaking. Good

1 morning, everybody. Thank you for taking some time to  
2 hear me today.

3 I am requesting that my taxes be accepted in. I  
4 did not file my taxes timely. Now I know that. At the  
5 time I did not know. I had a husband that disappeared and  
6 I got completely indebted with everything that we had. It  
7 took me some time to get stuff paid down, and I'm towards  
8 the very end of it now.

9 I owe a very small amount -- or I should say we  
10 owe a very small amount to the IRS. And I'm only  
11 requesting, actually, that the money just be paid to the  
12 IRS. I don't even care to have the money personally. I  
13 just would like to finish paying off the debt. I don't  
14 know if that's doable or not, but I figure it would be  
15 worth asking.

16 You're muted.

17 JUDGE STANLEY: This is Judge Stanley speaking.  
18 Ms. Kevie, is that all that you would like to present  
19 today?

20 MS. KEVIE: As far as I know, yes.

21 JUDGE STANLEY: Okay. Well, I'll give you the  
22 final word after the Franchise Tax Board does their  
23 presentation.

24 MS. KEVIE: Thank you.

25 JUDGE STANLEY: Mr. Muradyan, you can proceed



1       when ready.

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PRESENTATION

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MR. MURADYAN: Good morning. My name is David Muradyan, and along with us from Franchise Tax Board is Nancy Parker my colleague.

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The sole issue on appeal is whether Appellant's claim refund of \$2,667 was timely filed within the statute of limitations period provided for in Revenue & Taxation Code Section 19306. As I will show, it was not timely filed. Specifically, on October 10th, 2022, Appellant filed her 2017 California resident income tax return, over four years from the due date of April 15, 2018. FTB processed the Appellant's return, but because her return was filed more than four years from the original due date, her claim for refund was barred due to the statute of limitations.

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On appeal Appellant concedes that she filed her return late and states she was not aware of the statute of limitations. R&TC section 19306 provides that a claim for refund must be filed within four years of the original due date of the tax return, four years from the date the return was filed if it was filed timely within the automatic extended due date, or one year from the date of overpayment, whichever is later, or the claim cannot be

1       allowed.

2               The burden is on the taxpayer to show that the  
3       claim for refund was timely filed. Unfortunately,  
4       Appellant did not file the 2017 tax return until  
5       October 10th, 2022, more than four years from the original  
6       due date of the return. The alternative limitations  
7       period allows overpayments within one year of the claim to  
8       be refunded. Here, Appellant's only credits were the  
9       California withholding credits, and these withholding  
10      credits are credited as paid on the original due date of  
11      her return, which is April 15, 2018.

12              Because April 15th, 2018, is more than one year  
13      before Appellant filed her return on October 10th, 2022,  
14      the one-year statute of limitations period for over  
15      payments has also expired. In addition, with respect to  
16      Appellant's argument that she was unaware of the statute  
17      of limitations requirement, unfortunately, even if the  
18      taxpayer is unaware of the statute of limitations period,  
19      ignorance of the law does not excuse the taxpayer's  
20      failure to file a timely claim for refund.

21              Finally, with respect to Appellant's request that  
22      FTB send the overpayment to the IRS, this request cannot  
23      be granted as such overpayments are either refunded or  
24      credited back to the taxpayers unless barred by the  
25      statute of limitations, which is the case here.

1 Accordingly, Appellant's claim for refund of \$2,667 for  
2 the 2017 tax year is beyond the applicable statute of  
3 limitations period, and FTB's denial of Appellant's claim  
4 for refund was proper.

5 With that, I'm done, and I'm happy to take any  
6 questions.

7 JUDGE STANLEY: Okay. Thank you, Mr. Muradyan.  
8 This is Judge Stanley speaking.

9 Ms. Kevie, you can have the final word and  
10 respond to anything that Mr. Muradyan said.

11

12 CLOSING STATEMENT

13 MS. KEVIE: Hi this is Carrie speaking.

14 So I had spoken to some different sources, and  
15 they told me that in certain extenuating circumstances  
16 that you could -- it could be waived that you could file  
17 late. One is military. There's a whole bunch of them,  
18 and one of them due to financial hardship. I was not able  
19 to actually do any of the filing until when I did, and I  
20 did all of them at once. I don't know if that is actually  
21 still okay with California or not. I know the federal  
22 does.

23 Yes, go ahead.

24 JUDGE STANLEY: This is Judge Stanley speaking.  
25 Mr. Muradyan, do you want to respond to Ms. Kevie's point

1       about financial hardship.

2               MR. MURADYAN: Yes, Judge Stanley. This is David  
3 Muradyan again.

4               So Revenue & Taxation Code 19316 does allow for  
5 the suspension of the statute of limitations period in the  
6 event that the taxpayer is financially disabled, which  
7 would essentially be a period in which the taxpayer is  
8 unable to manage her financial affairs, et cetera. In  
9 order to qualify for that, the taxpayer would have to  
10 submit FTB Form 1564, which is the financial disability  
11 form.

12              As noted, you know, the burden is on the taxpayer  
13 to provide that information. On this appeal FTB has not  
14 received any such information, nor has there been such a  
15 request made. So, unfortunately, there's -- we can't  
16 consider something we haven't received. But that's  
17 generally R&TC Section 19316 does provide for that. There  
18 are certain steps that the taxpayer would have to make in  
19 order to, you know, provide us that financial disability  
20 statement from a doctor. But in this case, we have not  
21 received any such statement.

22              JUDGE STANLEY: Thank you. This is Judge Stanley  
23 speaking.

24              Ms. Kevie, do you want to respond?

25              MS. KEVIE: Yes. This is Carrie Kevie speaking.

1           Yes, I did not know that it had to be under a  
2     doctoral financial situation like that, and I did not. I  
3     was able to work still, but the financial burden was so  
4     far more than what I was making at the time. It did take  
5     me several years to get it paid off. So I guess that did  
6     answer my question. Thank you very much.

7           JUDGE STANLEY: Okay. Thank you.

8           Thank you all for your presentations, and we're  
9     going to submit this case now. This concludes the  
10    hearing. The record is now closed, and the matter will be  
11    submitted for a written opinion, which the Office of Tax  
12    Appeals will mail to the parties no later than 100 days  
13    from today.

14          We are going to reconvene -- we're going to  
15    recess the hearing and reconvene at 11:15 a.m. for the  
16    next one. Thank you all, and enjoy the rest of your day.

17          (Proceedings adjourned at 9:49 a.m.)  
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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for  
the State of California, do hereby certify:

That the foregoing transcript of proceedings was  
taken before me at the time and place set forth, that the  
testimony and proceedings were reported stenographically  
by me and later transcribed by computer-aided  
transcription under my direction and supervision, that the  
foregoing is a true record of the testimony and  
proceedings taken at that time.

I further certify that I am in no way interested  
in the outcome of said action.

I have hereunto subscribed my name this 1st day  
of August, 2023.

\_\_\_\_\_  
ERNALYN M. ALONZO  
HEARING REPORTER