

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 220510317
A. NIX)
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OPINION

Representing the Parties:

For Appellant: A. Nix

For Respondent: Christopher Casselman, Tax Counsel IV¹

For Office of Tax Appeals: Nguyen Dang, Tax Counsel III

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, A. Nix (appellant) appeals from an action of respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$2,015.87 for the 2016 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’s 2016 refund claim barred by the statute of limitations?

FACTUAL FINDINGS

1. Appellant did not timely file a 2016 California income tax return.
2. On July 23, 2018, FTB issued to appellant a Notice of State Income Tax Due for the 2016 taxable year for \$2,502.00 in tax, a \$1,140.50 late-filing penalty, an \$84.00 collection cost recovery fee, and applicable interest.
3. From November 15, 2019, through June 15, 2020, FTB involuntarily collected from appellant \$2,818.42 in payments, which FTB applied to appellant’s 2016 taxable year

¹ Eric A. Yadao, Tax Counsel IV, filed FTB’s additional brief.

account balance. Additionally, appellant's employer withheld \$442.00 from appellant's wages and transmitted it to FTB, for total 2016 payments of \$3,260.42 for taxable year 2016.

4. On March 1, 2022, appellant filed a 2016 California Resident Income Tax Return (Return) reporting total tax of \$747.00 and \$442.00 of withholdings.
5. FTB accepted the Return as filed and treated it as a claim for refund of \$2,015.87,² which FTB denied due to the expiration of the statute of limitations to claim a refund.
6. This timely appeal followed.

DISCUSSION

R&TC section 19306 sets forth the general statute of limitations for filing a refund claim, which is the later of: (1) four years from the date the return is filed, if filed on or before the extended due date; (2) four years from the due date of the return without regard to any extensions; or (3) one year from the date of overpayment.

Appellant concedes that the Return was filed outside the above periods for making a timely refund claim. Instead, appellant argues she mistakenly assumed that FTB's collection activity meant that FTB had already filed an income tax return on her behalf. Appellant also asserts that she spoke with FTB's representative after filing the Return, who informed appellant that she would receive a refund for the 2016 taxable year.

The reasons provided by appellant for failing to make a timely refund claim do not permit FTB to refund or credit her overpayment for the 2016 taxable year. The requirements of R&TC section 19306 are to be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Except in very limited situations which are not present here,³ a taxpayer's untimely filing of a claim for *any reason* bars a refund. (*Ibid.*) "Although the result of fixed deadlines may appear

² In total, FTB collected \$3,260.42 including appellant's income tax withheld and involuntary collections. FTB issued its denial of a claim for refund in the amount of \$2,015.87. The difference is due to reported tax due of \$747.00, the late-filing penalty of \$135.00, the demand-to-file penalty of \$186.75, interest of \$71.80, a filing enforcement cost recovery fee of \$84.00, and a county lien fee of \$20.00, totaling \$1,244.55. (\$3,260.42 paid - \$1,244.55 owed = \$2,015.87 overpayment.)

³ R&TC section 19316 provides for a narrow exception for suspending the statute of limitations where the taxpayer is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months.

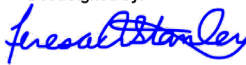
harsh, the occasional harshness is redeemed by the clarity imparted.” (*Ibid.*) Accordingly, OTA finds that FTB acted properly in denying appellant’s untimely refund claim.

HOLDING


Appellant’s 2016 refund claim is barred by the statute of limitations.


DISPOSITION

FTB’s action denying appellant’s claim for refund is sustained.

DocuSigned by:

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Teresa A. Stanley
Administrative Law Judge

We concur:

DocuSigned by:

CB1F7DA37831416
Josh Lambert
Administrative Law Judge

DocuSigned by:

3CADA62EB4864CB
Andrew J. Kwee
Administrative Law Judge

Date Issued: 6/27/2023