

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
M. MURRAY AND) OTA Case No. 221011680
C. MURRAY (DEC'D))
_____)

OPINION

Representing the Parties:

For Appellant: M. Murray
For Respondent: Maria Brosterhous, Tax Counsel IV

A. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Murray and C. Murray (dec'd) (appellants) appeal actions by the Franchise Tax Board (respondent) denying appellants' claims for refund of \$644.92 for the 2009 tax year and \$1,782.00 for the 2014 tax year.

Appellants elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single administrative law judge. (Cal. Code Regs., tit. 18, § 30209.1) Appellants waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

Whether appellants filed timely claims for refund for the 2009 and 2014 tax years.

FACTUAL FINDINGS

1. Appellants did not timely file their 2009 and 2014 California tax returns. Respondent received information from third parties reporting wage income earned by appellant M. Murray during the 2009 and 2014 tax years. Based on this information, respondent believed that appellant M. Murray may have had a filing requirement for the 2009 and 2014 tax years. For each tax year, respondent sent a notice requesting that appellant M.

- Murray file a return, provide a copy of the return as evidence that it had already been filed, or provide information on why she was not required to file a return.
2. Respondent did not receive a response from appellant M. Murray for either tax year. Respondent issued appellant M. Murray Notices of Proposed Assessment (NPAs) for the 2009 and 2014 tax years. Respondent calculated appellant M. Murray's tax liabilities and penalties based on wage information and applied the standard deduction for a single taxpayer and one exemption credit based on a single individual with no dependents, less withholding credits.¹ For the 2009 tax year, respondent calculated a tax of \$1,500.00 and imposed a late filing penalty of \$375.00 plus interest. For the 2014 tax year, respondent calculated a tax of \$898.00 and imposed a late filing penalty of \$224.50, a demand penalty of \$495.50, and a filing enforcement fee of \$79.00, plus interest.
 3. After appellant M. Murray failed to timely protest the NPAs, the proposed assessments became final. Respondent began collection actions. For the 2009 tax year, respondent received multiple payments from appellants that totaled \$1,191, the last of which respondent received on January 5, 2021. For the 2014 tax year, respondent received multiple payments from appellants that totaled \$1,850, the last of which respondent received on July 25, 2019.
 4. On May 2, 2022, appellants filed their 2009 and 2014 tax returns. For each tax year, appellants applied the standard deduction for a filing status of married filing jointly and claimed two personal exemption credits and three dependent exemption credits. On their 2009 return, appellants claimed no withholding credits and reported a total tax liability of \$297. On their 2014 return, appellants claimed no withholding credits, reported no tax liability, and claimed no refund. Respondent accepted the returns as filed and based on the collection payments treated the returns as claims for refund. Respondent calculated appellants' overpayments to be \$644.92 for the 2009 tax year and \$1,782.00 for the 2014 tax year.

¹ A taxpayer is presumed to be eligible only for the single filing status with no dependents and eligible only for the standard deduction until the taxpayer files a California return and establishes that he or she is entitled to use a different filing status and the claimed exemptions, credits, and deductions. Each of the NPAs indicates that, although the proposed assessment is based on a single individual with no dependents and the standard deduction, respondent "will revise any difference in filing status, additional deductions, exemptions, or credits when you file your required tax return."

5. Respondent issued appellants letters informing them that it denied their refund claims for the 2009 and 2014 tax years because the statute of limitations expired.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall 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. The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*Appeal of Cornbleth*, 2019-OTA-408P.) The taxpayers have the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

Here, appellants were required to file a 2009 refund claim no later than April 15, 2014, which is four years from the original due date of the return. Under the alternative one-year statute of limitations, appellants were required to file the refund claim no later than January 5, 2022, which is one year from the date of appellants' last payment to respondent. Appellants did not file a 2009 return until May 2, 2022, which is after both the four-year and one-year statutes of limitations expired.

Appellants were required to file a 2014 refund claim no later than April 15, 2019, which is four years from the original due date of the return. Under the alternative one-year statute of limitations, appellants were required to file the refund claim no later than July 25, 2020, which is one year from the date of appellants' last payment to respondent. Appellants did not file a 2014 return until May 2, 2022, which is after both the four-year and one-year statutes of limitations expired.

Appellants request "grace [and] forgiveness" for their untimely refund claims. Appellant M. Murray recounts serious challenges she has experienced since 2013, including the death of appellant C. Murray. Appellants indicate it is unfair that the proposed tax for each tax year was calculated based on a single taxpayer with no dependents when in fact appellants were married with three dependents.

Although the Office of Tax Appeals is sympathetic to appellants' situation, it cannot overlook the tardiness of their refund claims; the Office of Tax Appeals can only grant relief where the law specifically allows. (See *Appeal of Xie*, 2018-OTA-076P.) Appellants' failure to

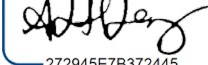
file a claim for refund within the statute of limitations, for any reason, bars them from later receiving a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) The language of the statute of limitations must be strictly construed, and there is no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Jacqueline Mairghread Patterson Trust, supra.*) For the reasons described above, appellants' claims for refund are barred under the statute of limitations described in R&TC section 19306(a).

HOLDING

Appellants did not file timely claims for refund for the 2009 and 2014 tax years.

DISPOSITION

Respondent's actions denying appellants' claims for refund are sustained.

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Andrea L.H. Long
Administrative Law Judge

Date Issued: 7/6/2023