

- filing of a California income tax return for the 2016 tax year. Appellants did not respond to the Demand.
2. On June 11, 2018, FTB issued a Notice of Proposed Assessment (NPA) proposing to assess tax of \$2,885.00. FTB also imposed a late filing penalty of \$721.25, a notice and demand penalty (demand penalty) of \$846.25, a filing enforcement fee of \$84.00, and applicable interest.
 3. Appellants did not respond to the NPA, and the proposed liabilities became final. FTB then commenced collection actions and received payments during the period January 1, 2020, through November 30, 2020, which satisfied the liability.
 4. On October 10, 2022, appellants filed a joint California resident income tax return claiming a refund of \$5,363.00. FTB accepted appellants' return as filed. Based on the filed return, FTB revised the demand penalty to \$734.24 and the late filing penalty to \$359.25. After subtracting payments for the applicable penalties, fees, and interest, FTB found that appellants made an overpayment of \$789.97. On November 1, 2022, FTB denied the claim for refund stating that it was barred by the statute of limitations.
 5. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides, in relevant 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 date the return was due, determined without regard to any extension of time to file; or (3) one year from the date of overpayment. A taxpayer has the burden of proving entitlement to a refund. (*Appeal of Jali, LLC*, 2018-OTA-052P.)

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The language of the statute of limitations must be strictly construed. (*Ibid.*) Such 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 Khan*, 2020-OTA-126P.) A taxpayer's failure, for whatever reason, to file a claim for refund or credit within the statutory period prevents the taxpayer from doing so at a later date. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) It is well established that each taxpayer has a personal, non-delegable obligation to ensure the timely filing of a tax return.

(*U.S. v. Boyle* (1985) 469 U.S. 241, 252; *Appeal of Quality Tax & Financial Services, Inc.*, 2018-OTA-130P.)

Appellants' 2016 return was not filed until October 10, 2022. As appellants failed to file a return by the due date of April 15, 2017, or the automatic extension period, the four-year statute of limitations to file a claim for refund began to run on the original due date of appellants' 2016 return and expired four years later, on April 15, 2021.² (R&TC, § 19306(a).) Appellants' claim for refund is therefore barred under the four-year statute of limitations period.

The one-year statute of limitations only applies to payments made within one year of the date the claim for refund is filed. (R&TC, § 19306(a).) Here, appellants' final payment was made on November 30, 2020. Because appellants' claim for refund was filed on October 10, 2022, which is more than one year later, appellants' claim for refund is also barred under the one-year statute of limitations.

On appeal, appellants do not dispute that they filed an untimely return for the 2016 tax year. Instead, appellants request that the refund amount should be credited to another year. However, no credit or refund shall be allowed if the claim for refund is barred by the statute of limitations. (See R&TC, § 19306(a).) OTA notes that there are limited circumstances under which the statute of limitations may be suspended.³ However, appellants have not argued, nor does OTA find, that any of these circumstances exist. The statute of limitations is strictly construed, and there is no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P.*, *supra*.) Accordingly, because appellants did not timely file a refund claim under either the four-year or one-year statute of limitations for 2016, appellants are barred from seeking a refund.

² In response to the COVID-19 pandemic, FTB postponed the closing of the statute of limitations for refund claims that would have expired on April 15, 2021, such as appellants' refund claim, to May 17, 2021. (See <https://www.ftb.ca.gov/about-ftb/newsroom/2020-tax-year-extension-to-file-and-pay-individual.html>.) That postponement does not affect the analysis here because appellants filed a refund claim after May 17, 2021.

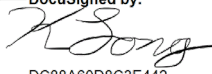
³ For example, R&TC section 19316 provides that the statute of limitations may be suspended for taxpayers who establish that they were financially disabled within the meaning of that statute.

HOLDING

Appellants’ claim for refund for the 2016 tax year is barred by the statute of limitations.

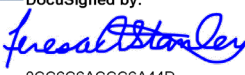
DISPOSITION

FTB’s denial of appellants’ claim for refund for the 2016 tax year is sustained.

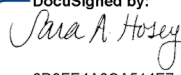
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Keith T. Long
Administrative Law Judge

We concur:

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Teresa A. Stanley
Administrative Law Judge

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Sara A. Hosey
Administrative Law Judge

Date Issued: 7/18/2023