

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 221212052
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M. MORADI)
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OPINION

Representing the Parties:

For Appellant: M. Ahtirski

For Respondent: Joel M. Smith, Tax Counsel III

E. LAM, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Moradi (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$857 for the 2017 tax year.

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

ISSUE

Whether appellant's claim for refund is barred by the statute of limitations for the 2017 tax year.

FACTUAL FINDINGS

1. On April 15, 2018, appellant remitted a \$100 extension payment for the 2017 tax year.
2. On September 4, 2019, and December 9, 2021, FTB issued Payment Received – No Return on File notices to appellant.
3. On October 15, 2022, appellant untimely filed the 2017 California Resident Income Tax Return and claimed California income tax withholding in the amount of \$1,847, and

extension payment in the amount of \$100. After applying total tax, the tax return claimed an overpayment of \$857.

4. FTB treated the untimely filed 2017 tax return as a claim for refund, but denied it because the statute of limitations expired.
5. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed or made 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 due date for filing a return for the year at issue (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. (R&TC, § 19306(a).) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellant contends that the claim for refund was filed within the statute of limitations. Appellant provides proof of mailing in support that he filed his tax return on October 15, 2022. However, appellant still has not shown that the claim for refund was timely filed.

Here, appellant's claim for refund in his 2017 California tax return was untimely filed on October 15, 2022. The first four-year statute of limitations period is inapplicable because the 2017 tax return was untimely filed. The deadline for the second four-year statute of limitations period expired on April 15, 2022, or four years from the due date of filing the 2017 return on April 15, 2018, and appellant did not file his return until after this date. Lastly, the one-year statute of limitations bars a refund claim for any payments made within the one-year period prior to filing the claim for credit or refund. Here, appellant's payments for the 2017 tax year were all received on April 15, 2018, in the amount of \$1,847 for the California income tax withholding¹ and \$100 for the extension payment. Thus, to be within the one-year statute of limitations, appellants' claim for refund needed to be filed on or before April 15, 2019, or one year from the date appellant's payments were received. Since the claim for refund was filed well after

¹ By statute, income tax withholding is specifically deemed to have been paid on April 15, 2018, the original due date of the tax return for purposes of determining the statute of limitations. (See R&TC, § 19002(c)(1).)

April 15, 2019, appellant’s claim for refund does not meet the one-year statute of limitations.
Therefore, appellant’s claim for refund is untimely.

HOLDING

Appellant’s claim for refund is barred by the statute of limitations for the 2017 tax year.

DISPOSITION

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

DocuSigned by:
Eddy Y.H. Lam
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Eddy Y.H Lam
Administrative Law Judge

Date Issued: 7/14/2023