

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:

I. NAVARRO

) OTA Case No. 230112310
)
)
)
)
)

OPINION

Representing the Parties:

For Appellant:

I. Navarro

For Respondent:

Andrea Watkins, Tax Counsel

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, I. Navarro (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$16,507.09 for the 2017 taxable year.

Appellant waived the right to an oral hearing; therefore, the Office of Tax Appeals decides the matter based on the written record.

ISSUE

Is appellant’s claim for refund for the 2017 taxable year barred by the statute of limitations?

FACTUAL FINDINGS

1. Appellant failed to file a timely 2017 California income tax return.
2. Based on information reported to FTB that appellant earned income sufficient to require him to file a return, FTB issued a request for a tax return. After appellant did not respond, FTB issued a notice of proposed assessment (NPA) proposing tax of \$11,999.00, a late-filing penalty of \$2,999.75, and applicable interest.

3. FTB collected \$16,760.33, which was posted to appellant's 2017 tax account on March 30, 2020. On July 29, 2020, FTB wrote off the remaining balance of \$63.76.¹
4. Appellant filed his 2017 California tax return by mail. FTB received the return on October 5, 2022, reporting total tax of \$0.00.
5. FTB treated appellant's tax return as a claim for refund and denied appellant's claim for refund based on the expiration of the statute of limitations.
6. Appellant filed this timely appeal.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. The statute of limitations provides, in pertinent 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 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.)

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P, citing *U.S. v. Brockamp* (1997) 519 U.S. 347 [no intent to equitably toll the federal tax statute of limitations].) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, *supra.*) A taxpayer's untimely filing of a claim for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

For the 2017 taxable year, the first statute of limitations period does not apply because appellant did not file a return within a valid extension period. The second statute of limitations period expired on April 15, 2022, four years after the original due date of April 15, 2018, and

¹ FTB denied appellant's claim for refund in the amount of \$16,507.09, which consists of payments of \$16,760.33 minus a collection cost recovery fee of \$317 and adding back a write-off of \$63.76.

appellant’s claim for refund filed six months later is barred. With respect to the third statute of limitations period, FTB collected \$16,760.33 on March 30, 2020. As a result, the one-year statute of limitations period for this payment expired on March 30, 2021. Appellant requested a refund on October 5, 2022, more than a year after the expiration of the one-year statute of limitations. As such, appellant’s claim for refund for 2017 was properly denied due to the expiration of the statute of limitations.


Appellant contends that he mailed his California tax return on January 30, 2021, which would have been timely under the statute of limitations. However, appellant has provided no evidence that the return was mailed on that day, and FTB does not have a record of receiving a return on or near that date. Consequently, appellant has not established that he filed his claim for refund prior to the expiration of the statute of limitations.

HOLDING

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

DISPOSITION


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

DocuSigned by:

0CC6C6ACCC6A44D...
Teresa A. Stanley
Administrative Law Judge

We concur:

DocuSigned by:

A11783ADD49442B...
Huy “Mike” Le
Administrative Law Judge

DocuSigned by:

6D3FE4A0CA514E7...
Sara A. Hosey
Administrative Law Judge

Date Issued: 8/14/2023