

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
T. STEIN

) OTA Case No. 221111946
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OPINION

Representing the Parties:

For Appellant: Jennifer Dermon, CPA

For Respondent: Topher Tuttle, Attorney

For Office of Tax Appeals: Nguyen Dang, Attorney

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, T. Stein (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$24,248 for the 2017 tax year.

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

ISSUE

Whether appellant’s refund claim was timely.

FACTUAL FINDINGS

1. On April 12, 2018, appellant timely filed her 2017 California income tax return (Return).
2. On March 18, 2021, respondent notified appellant that she may have failed to claim \$24,248 in tax withholding credits on her Return.
3. On July 5, 2022, appellant filed an amended Return claiming additional withholding credits of \$24,248 and a refund for that same amount.
4. Respondent issued a notice to appellant denying the claim for refund on grounds that it was untimely.
5. This timely appeal followed.

DISCUSSION

A refund claim must generally be filed within 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. (R&TC, § 19306(a).)¹

Appellant concedes that the amended Return was not filed within the general limitation periods for making a refund claim as prescribed in R&TC section 19306. Appellant argues nevertheless that her refund claim should be granted because the untimely filing of the amended Return occurred despite the exercise of ordinary business care and prudence. Appellant asserts she notified her tax return preparer well before the expiration of the statute of limitations that an amended return would need to be filed, but that her return preparer was unable to timely prepare and file the amended return due to operational issues caused by COVID-19.

Appellant provides arguments based on reasonable cause. However, there is no reasonable cause or equitable basis for suspending the statute of limitations for making a refund claim. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The requirements of R&TC section 19306 must be strictly construed, meaning that except in very limited situations which are not present here,² a taxpayer's untimely filing of a claim for *any reason* bars a refund.³ (*Ibid.*) The purpose behind the statute of limitations for making a refund claim is so that the state may “evaluate the merits of the taxpayer’s claim and to plan fiscal policy accordingly.” (*Shiseido Cosmetics Ltd. v. Franchise Tax Bd.* (1991) 235 Cal.App.3d 478, 489.) “Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted.” (*Appeal of Benemi Partners, L.P.*, *supra.*) Therefore, appellant’s reasonable cause arguments do not establish a basis for suspending the statute of limitations.

¹ Due to the COVID-19 pandemic, FTB extended the time to file certain refund claims. (See FTB Notice 2020-02; <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-03-state-tax-deadline-for-individuals-postponed-until-may-17-2021.html>.) However, these extensions are not applicable for the period at issue.

² For instance, 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.

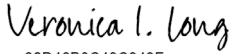
³ Appellant asserts the delay in filing the claim for refund was attributable to the COVID-19 pandemic, but did not provide any detail to demonstrate that the effect of COVID-19 on appellant would qualify for any of the limited exceptions.

HOLDING


Appellant’s refund claim was untimely.


DISPOSITION

Respondent’s action is sustained.

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Veronica I. Long
Administrative Law Judge

We concur:

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John O. Johnson
Administrative Law Judge

DocuSigned by:

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Richard Tay
Administrative Law Judge

Date Issued: 9/25/2023