

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 220911311
S. SAMANO AND)
S. SAMANO)
_____)

OPINION

Representing the Parties:

For Appellants: S. Samano and S. Samano

For Respondent: Eric R. Brown, Tax Counsel III

A. WONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, S. Samano and S. Samano (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants’ claim for refund of \$1,528.41 for the 2014 tax year.

Appellants waived the right to an oral hearing, so the Office of Tax Appeals (OTA) decides this matter based on the written record.

ISSUE

Whether the statute of limitations bars appellants’ claim for refund for the 2014 tax year.

FACTUAL FINDINGS

1. Appellants, a married couple, did not timely file a California income tax return (return) for the 2014 tax year by either the due date of April 15, 2015, or the six-month extension deadline of October 15, 2015.
2. On January 12, 2016, FTB demanded that appellant-wife file a 2014 return, prove that she already filed her 2014 return, or explain why she did not have a filing requirement. Appellant-wife did not respond.
3. On March 2, 2016, FTB requested that appellant-husband file a 2014 return, prove that he already filed his 2014 return, or explain why he did not have a filing requirement. Appellant-husband did not respond.

4. On March 14, 2016, FTB issued to appellant-wife a Notice of Proposed Assessment (NPA) for the 2014 tax year, which estimated appellant-wife's taxable income and proposed tax, penalties, interest, and a fee. Appellant-wife did not protest, or otherwise respond to, the NPA, which subsequently became final.
5. On May 2, 2016, FTB issued to appellant-husband an NPA for the 2014 tax year, which estimated appellant-husband's taxable income and proposed tax, a penalty, and interest. Appellant-husband did not protest, or otherwise respond to, the NPA, which subsequently became final.
6. Thereafter, FTB initiated involuntary collection action against appellants. From August 1, 2016, through April 15, 2017, FTB collected four payments totaling \$2,452.75, which fully satisfied both appellants' liabilities for the 2014 tax year.
7. On March 25, 2022, appellants jointly filed their 2014 return, which reported taxable income of \$66,344 and tax due of \$339.
8. FTB accepted appellants' 2014 return, treated it as a claim for refund of \$1,528.41, and then denied the claim because FTB determined that the applicable statute of limitations had expired.
9. 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. 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.) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Appeal of Porreca*, 2018-OTA-095P.)

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 is explicit and must be strictly construed. (*Appeal of Khan*, 2020-OTA-126P.) A taxpayer's failure to file a claim for refund, for whatever reason, within the statutory period bars the taxpayer from doing so at a later date. (*Ibid.*) 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.*)

In their written request for appeal before OTA, appellants explain their disagreement with FTB’s decision with the following: “GARNISHED WAGES,” “GARNISHED SAVINGS,” and “GARNISHED CHECKING ACCTS.” Appellants apparently object to the way FTB collected payments from appellants.

Here, appellants jointly filed their claim for refund on March 25, 2022. Because appellants did not timely file their claim within the extension ending on October 15, 2015, the first four-year statute of limitations described in R&TC section 19306(a) is inapplicable. The second four-year statute of limitations described therein ended on April 15, 2019 (i.e., four years from the 2014 return’s due date regardless of any extension), so appellants’ March 25, 2022 claim for refund was not timely filed within the second four-year statute of limitations. Regarding the one-year statute of limitations, it only allows the refund of payments made within one year of appellants’ March 25, 2022 claim for refund (i.e., payments made after March 25, 2021). However, the alleged overpayments at issue are a series of four payments collected by FTB between August 1, 2016, and April 15, 2017 (i.e., before March 25, 2021); accordingly, under the one-year statute of limitations, appellants’ claim for refund is not timely with respect to these payments. For the reasons described above, appellants’ claim for refund is not timely under any of the statutes of limitations described in R&TC section 19306(a).

As for their apparent objection to FTB’s collection methods, appellants have not explained the basis for their objection or supplied evidence for why a different result is warranted. Accordingly, OTA concludes that appellants have failed to prove either that their claim for refund is timely or that they are entitled to a refund.

HOLDING

The statute of limitations bars appellants’ claim for refund for the 2014 tax year.

DISPOSITION

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

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Andrew Wong
Administrative Law Judge

We concur:

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Administrative Law Judge

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Sara A. Hosey
Administrative Law Judge

Date Issued: 10/3/2023