

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
P. TUCKER

) OTA Case No. 221212065
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OPINION

Representing the Parties:

For Appellant: P. Tucker

For Respondent: Shur Erdenekhuu, Graduate Student Assistant

For Office of Tax Appeals: Kaleigh Adams, Graduate Student Assistant

A. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, P. Tucker (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$2,317 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 filed a timely claim for refund for the 2017 tax year.

FACTUAL FINDINGS

1. On July 15, 2022, appellant filed an untimely 2017 California Resident Income Tax Return (Form 540) reporting a total tax of \$12,255, California withholdings of \$14,572, and an overpayment of \$2,317.
2. FTB treated the 2017 tax return as a claim for refund. FTB denied the claim because appellant did not file the claim for refund before the statute of limitations expired.
3. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund is 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 filed within the extended due date; (2) four years from the due date for filing the return (determined without regard to any extension of time for filing the return); or (3) one year from the date of the overpayment. For purposes of the one-year statute of limitations, any tax deducted and withheld during any calendar year is deemed to have been paid on the original filing deadline for that tax year. (R&TC, § 19002(c)(1).) The taxpayer has the burden of proof to establish entitlement to a refund and that the refund claim is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

Here, appellant's 2007 tax return was untimely filed on July 15, 2022. The four-year statute of limitations for appellant's 2007 refund claim expired on April 15, 2022, which is four years from the original due date of the return (i.e., April 15, 2018.) Under the one-year statute of limitations, appellant was required to file the refund claim no later than April 15, 2019, which is one year from when appellant's California income tax withholdings were deemed to have been paid (i.e., April 15, 2018). Appellant did not file until July 15, 2022, after both the four-year and one-year statute of limitations expired.

Appellant does not dispute that her refund claim was filed late. Instead, appellant states that family matters took precedent over the filing of her 2017 tax return. These matters include co-existing in an apartment with her partner and son, providing household income, and preparing for her son's high school graduation during the COVID-19 pandemic. She also states federal tax-related delays contributed to her return being untimely.

The Office of Tax Appeals cannot overlook the untimeliness of a taxpayer's refund claim and can only grant relief where the law specifically allows. (See *Appeal of Xie*, 2018-OTA-076P.) Appellant's failure to file a claim for refund within the statute of limitations, for any reason, bars her from later receiving a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)¹ The language of the statute of limitations must be strictly construed, and there is no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P.*,

¹ The time period for filing a claim for refund may be suspended if a taxpayer is "financially disabled" as defined by R&TC section 19316. Appellant does not assert, and the record does not reflect, that she is financially disabled.

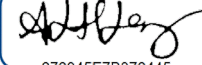
2020-OTA-144P.) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Jacqueline Mairghread Patterson Trust, supra.*) For the reasons described above, appellant’s claim for refund is barred under the statute of limitations described in R&TC section 19306(a).

HOLDING

Appellant did not file a timely claim for refund for the 2017 tax year.

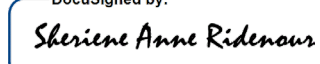
DISPOSITION

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

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Andrea L.H. Long
Administrative Law Judge

We concur:

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Sheriene Anne Ridenour
Administrative Law Judge

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Michael F. Geary
Administrative Law Judge

Date Issued: 10/9/2023