

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:) OTA Case No. 230613703
J. JAGADISH)
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OPINION

Representing the Parties:

For Appellant: J. Jagadish

For Respondent: Lawrence Xiao, Attorney

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Jagadish (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$800 for the 2017 taxable 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, § 30209.05.) 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 taxable year 2017 barred by the statute of limitations?

FACTUAL FINDINGS

1. Appellant filed a timely 2017 California income tax return on April 9, 2018, reporting total tax of \$3,446, total payments of \$9,641,¹ and an overpayment of \$6,195. Appellant requested that \$1,000 be applied to his estimated tax for 2018 and that the remainder be refunded.
2. On April 10, 2018, FTB refunded \$5,195 to appellant.

¹ Appellant reported tax withheld of \$4,033, and estimated tax payments of \$5,608.

3. On April 15, 2018, FTB transferred \$1,000 to appellant's estimated tax payment for taxable year 2018, as requested by appellant.
4. On April 11, 2023, appellant filed an amended California income tax return, reporting total tax of \$2,646 and requesting a refund of overpaid tax.²
5. FTB denied appellant's claim for refund due to the expiration of the statute of limitations.
6. This timely appeal followed.

DISCUSSION

Generally, no credit or refund of overpaid tax 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).)³ A taxpayer has the burden of proof to show 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.) If a taxpayer fails to file a claim for refund within the statute of limitations, the claim is barred even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*)

Appellant filed a timely 2017 tax return on April 9, 2018. Because appellant did not file during the extension period, the first four-year statute of limitations period does not apply. The second four-year statute of limitations period runs from the original April 15, 2018 due date of appellant's 2017 return, and expired four years later on April 15, 2022. (R&TC, § 19306(a).) Appellant, however, filed his amended return for the 2017 taxable year on April 11, 2023, which is beyond the second four-year statute of limitations period prescribed in R&TC section 19306(a).

With regard to the one-year statute of limitations period, appellant's withholdings and estimated taxes are deemed paid on the due date for the tax return, April 15, 2018. (R&TC, § 19002(c)(1), (c)(2).) Thus, to be within the one-year statute of limitations, appellant must have

² Appellant requested a refund of \$5,995; however, once the prior refund of \$5,195 is subtracted, the remaining overpayment is \$800.

³ R&TC section 19316(a) provides for a narrow exception under certain circumstances not relevant to this appeal.

filed a claim for refund on or before April 15, 2019. Appellant’s claim for refund, filed on April 11, 2023, is well beyond the one-year statute of limitations prescribed in R&TC section 19306(a).

Appellant does not assert that he filed his California return within the statute of limitations periods described above. Rather, appellant asserts that he mistakenly failed to take a self-employment insurance deduction to which he was entitled. Appellant contends he filed the amended return as soon as he became aware of the mistake. Appellant requests a “one-time consideration due to human error.”

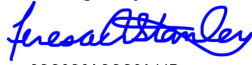
Appellant’s assertions constitute equitable requests or claims of reasonable cause under the circumstances. However, the statute of limitations may not be tolled based on either equitable grounds or reasonable cause. (*Appeal of Benemi Partners, L.P., supra.*) Moreover, the statute of limitations does not provide for tolling based on a one-time mistake.

HOLDING

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

DISPOSITION

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

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Teresa A. Stanley
Administrative Law Judge

Date Issued: 12/14/2023