

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
W. KLINGEMANN) OTA Case No. 230112393
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OPINION

Representing the Parties:

For Appellant: W. Klingemann
For Respondent: Christopher T. Tuttle, Attorney

E. LAM, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, W. Klingemann (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$637 for the 2017 tax 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 matter is being decided based on the written record.

ISSUE

Whether the statute of limitations bars any additional refund.

FACTUAL FINDINGS

1. On April 15, 2018, appellant timely filed a California Resident Income Tax Return (Form 540) for the 2017 tax year. Appellant reported a California tax liability of \$1,198. After applying the California income tax withholding of \$828, among other credits, appellant claimed an overpayment of \$69.
2. On May 16, 2018, FTB issued a refund of \$69 to appellant.
3. On December 8, 2022, appellant filed an amended 2017 tax return. Appellant reported a reduced California tax liability of \$288 and claimed an overpayment of \$706.

4. FTB accepted the 2017 amended tax return, but reduced appellant's overpayment to \$637 because FTB had already issued a refund of \$69 on March 16, 2018. FTB denied the claim for a refund due to the statute of limitations.
5. This timely appeal followed.
6. On appeal, the Office of Tax Appeals (OTA) offered appellant an opportunity to submit an additional briefing, together with supporting documentation, if any. However, appellant did not respond.

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. (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.)

Appellant's refund claim is barred by the statute of limitations because appellant did not file the refund claim within the statute of limitations as set forth in R&TC section 19306(a). Here, appellant timely filed the tax return on April 15, 2018. Therefore, both the first and second four-year statute of limitations periods expired on April 15, 2022, four years from the date appellant filed the tax return and the original due date of the tax return.

Lastly, the third one-year statute of limitations period described in R&TC section 19306(a) is one year from the date of overpayment. Here, appellant's only payment towards his 2017 tax year account is his California income tax withholding in the amount of \$828, which is deemed to be paid on the original due date of the 2017 tax return, or April 15, 2018, pursuant to R&TC section 19002(c)(1). Therefore, the third one-year statute of limitation expired on April 15, 2019, for the California income tax withholding credit, or one year after the date of the deemed California income tax withholding payment date. Since appellant filed his amended 2017 tax return on December 8, 2022, for a claim for refund, which exceeds the one-year statute of limitations, the claim for refund is properly barred by the statute of limitations as prescribed in R&TC section 19306(a).

On appeal, appellant argues that he could not file his claim for refund within the statute of limitations because he “lost most if not all of [his] documents after [his] cancer and just found them while [he] lost [his] job during” the COVID-19 pandemic. Appellant’s assertions here are reasonable cause arguments. However, there is generally no reasonable cause or equitable basis for suspending the statute of limitations.¹ (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The language of the statute of limitations is explicit and must be strictly construed. (*Ibid.*) 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.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*) Without a legislatively enacted exception to the statute of limitations, the Office of Tax Appeals does not have the legal authority here to avoid a seemingly unfair or harsh outcome. (*Appeal of Estate of Gillespie, supra.*) Accordingly, appellant is not entitled to a refund due to the expiration of the statute of limitations.

HOLDING

The statute of limitations bars any additional refund.

DISPOSITION

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

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Eddy Y.H. Lam

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Eddy Y.H. Lam
Administrative Law Judge

Date Issued: 11/17/2023

¹ The statute of limitations may only be suspended in cases of individual taxpayers who are properly determined to be “financially disabled.” Financial disability exists if: (1) an “individual 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;” and (2) there is no spouse/registered domestic partner or other legally authorized person who can act on the taxpayer’s behalf in financial matters). (R&TC, § 19316(b)(1)-(2); *Appeal of Estate of Gillespie*, 2018-OTA-052P.) OTA offered appellant the opportunity to submit additional briefing and appellant does not provide any argument or evidence to show he was financially disabled within the meaning of R&TC section 19136.