

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
C. SHAINI) OTA Case No. 230814118
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OPINION

Representing the Parties:

For Appellant: C. Shaini
For Respondent: Ariana Macedo, Graduate Legal Assistant

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Shaini (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$1,904.32 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 (OTA) 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. On April 15, 2018, appellant filed a timely 2017 California income tax return that overreported withholdings and requested a refund of \$3,380.
2. FTB issued a Notice of Tax Return Change – Balance Due reducing appellant’s reported withholdings, resulting in tax due of \$1,206, plus interest.
3. On August 28, 2018, appellant paid the balance due, including interest, of \$1,307.46.

4. On June 27, 2023, appellant filed an amended California income tax return reporting an overpayment of \$589¹ and requesting a refund.
5. FTB denied appellant's claim for refund of \$1,904.32 due to the expiration of the statute of limitations.
6. Appellant filed this timely appeal.

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).)² 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.*)

The first four-year statute of limitations period does not apply because appellant filed on or before the original due date for the return. (R&TC, § 19306(a).) Because appellant filed a timely 2017 tax return, on April 15, 2018, the second four-year statute of limitations period expired four years later on April 15, 2022. (R&TC, § 19306(a).) Appellant filed her amended return for the 2017 taxable year on June 27, 2023, which is beyond the applicable 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 of \$3,130 are deemed paid on the due date for the tax return, April 15, 2018. (R&TC, § 19002(c)(1).) Thus, to be within the one-year statute of limitations, appellant must have filed a

¹ On the amended return, appellant deducted withholdings of \$3,130 from her revised total tax of \$2,541, but did not deduct the August 28, 2018 payment of \$1,307.46. FTB calculated appellant's overpayment by subtracting appellant's total payments of \$4,437.46 (\$1,307.46 + \$3,130) from appellant's revised total tax of \$2,541. This results in an overpayment of \$1,896.46. Interest may explain the \$7.86 discrepancy per FTB's claim denial in the amount of \$1,904.32, but, in any event, the nominal difference does not change the outcome of this appeal.

² R&TC section 19316(a) provides for a narrow exception under certain circumstances not relevant to this appeal.

claim for refund on or before April 15, 2019. Appellant also made a payment of \$1,307.46 on August 28, 2018. Appellant's claim for refund, filed on June 27, 2023, is also well beyond the one-year statute of limitations that expired on August 28, 2019, with respect to that payment.

Appellant does not assert that she filed her amended California return within the statute of limitations periods described above. Rather, appellant asserts that a four-year statute of limitations period is too short. Appellant also contends that FTB reported that a partial refund would be granted, and that she did not receive any "COVID supports." Appellant has not explained how not receiving COVID-19 relief relates to the statute of limitations.

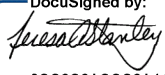
OTA is bound by the law that lays out the statute of limitations, and OTA has no authority to equitably extend it. (See *Appeal of Benemi Partners, L.P.*, *supra*.) As noted above, both the four-year and one-year statute of limitations periods expired before appellant claimed a refund on June 27, 2023. With respect to appellant's statement that FTB's letter indicated that she was entitled to a partial refund, OTA notes that appellant misreads FTB's Statute of Limitations letter denying her claim for refund in full. The notation referenced by appellant is simply a statement of the law that says if appellant had made payments within a year of filing her amended return (i.e., between June 27, 2022, and June 27, 2023), she would have been entitled to a partial refund. Appellant's only payments are her withholdings which are deemed paid on April 15, 2018, and her subsequent payment made on August 28, 2018, nearly five years prior to filing a claim for refund. Appellant's withholding and subsequent payment may not be refunded, and FTB properly denied appellant's claim for refund in full.

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: 1/23/2024