

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
E. SAGE)
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OTA Case No. 21088303

OPINION

Representing the Parties:

For Appellant: E. Sage

For Respondent: Kendall Keshtkar, Graduate Student
 Assistant

For Office of Tax Appeals: Nguyen Dang, Tax Counsel III

J. JOHNSON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, E. Sage (appellant) appeals two actions by Franchise Tax Board (respondent) denying a \$1,177.27 portion of appellant’s 2015 refund claim and appellant’s 2016 refund claim of \$1,726.¹

Appellant elected to have this matter decided based on the written record pursuant to the provisions set forth in the Rules for Tax Appeals section 30209.1 (Small Case Program), without an oral hearing.

ISSUE

Whether appellant’s refund claim for the 2015 tax year was timely as to the disputed amount.

¹ On petition for rehearing, respondent conceded the 2016 tax year refund amount at issue. Accordingly, this revised Opinion reflects respondent’s granting of the \$1,726 refund claim for 2016 in accordance with the Opinion on Petition for Rehearing and removes references to that tax year from the issue, facts, and discussion.

FACTUAL FINDINGS

1. For the 2015 tax year, respondent received information indicating that appellant may have earned sufficient wage income to require the filing of a tax return. When no timely return was filed, respondent issued a demand for tax return (Demand) for 2015 in June 2017.²
2. Appellant did not respond to the Demand, and respondent issued a Notice of Proposed Assessment (NPA) estimating tax liability, penalties, and interest based on the information available. The NPA went final when appellant did not protest it, and respondent began collection activity.
3. Appellant's 2015 California income tax return (Return) was filed on May 10, 2021.
4. Appellant's 2015 Return reflected a \$2,242 overpayment, which respondent accepted as filed.
5. Appellant's 2015 account balance reflected a demand penalty, collection cost fee, interest, and other credits which were not included on appellant's 2015 Return. After accounting for these items, respondent computed an overpayment of \$2,405.06 for the 2015 tax year.
6. Respondent did not credit or issue a full refund of this amount to appellant because appellant's 2015 Return was filed outside the applicable statute of limitations for filing a refund claim with respect to \$1,177.27 of overpayments.
7. Respondent thereafter issued a Notice of Action reflecting the above determination which resulted in a partial denial of the refund claim made on appellant's 2015 Return. This timely appeal followed.

² In addition to the Demand, respondent provides exhibits showing numerous and continuous contacts with appellant in which she was requested to file her return, including records reporting that respondent explained the four-year statute of limitations and that appellant promised to file the return prior to the expiration of the statute of limitations.

DISCUSSION

R&TC section 19306 sets forth the general statute of limitations for filing a refund claim, which is the later of: (1) four years from the date the return is filed, if filed on or before the extended due date; (2) four years from the due date of the return without regard to any extensions; or (3) one year from the date of overpayment.

Appellant does not dispute the \$2,405.06 overpayment amount computed by respondent for the 2015 tax year, or that appellant's Return was not filed within the periods prescribed by R&TC section 19306 for the disputed amounts. Appellant's sole contention is that appellant was unable to timely file the Return due to litigation involving appellant's ex-husband, which prevented appellant from claiming appellant's children as dependents on the Return during this time. We infer from this contention that appellant seeks a suspension of the statute of limitations to the date the Return was filed.

However, we note that there is no reasonable cause or equitable basis for suspending the statute of limitations for making a refund claim under these facts. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P ["taxpayer's untimely filing of a claim for *any reason* bars a refund" emphasis added]; but see R&TC, § 19316 [providing a narrow exception for suspending the statute of limitations where the 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].) "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.*)

Accordingly, because appellant did not file the Return within the periods set forth in R&TC section 19306 for the amount at issue, we find respondent properly denied appellant's refund claim.

HOLDING

Appellant's refund claim for the 2015 tax year was untimely as to the disputed amount.

DISPOSITION

Respondent's action as to the 2015 tax year is sustained.³

DocuSigned by:

John O Johnson

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John O. Johnson

Administrative Law Judge

Date Issued: 12/20/2023

³ As indicated above, respondent has agreed to refund or credit the \$1,726 refund claim for the 2016 tax year.