

FACTUAL FINDINGS2016 Tax Year

1. Respondent obtained information indicating that appellant received sufficient income to have a filing requirement for the 2016 tax year. However, respondent's records indicated that appellant had not filed a California Resident Income Tax Return (California tax return). Therefore, respondent issued appellant a Request for Tax Return (Request).
2. After appellant did not respond to the Request, respondent issued a Notice of Proposed Assessment (NPA) for the 2016 tax year.
3. Respondent received payments from appellant as follows: (1) appellant had withholding credits of \$4,620; (2) appellant paid \$2,114.88 before May 27, 2021; and (3) appellant paid \$478.54 after May 27, 2021. Included in appellant's payment of \$2,114.88 are two transfers. \$496.47 was transferred from appellant's 2019 tax year account to her 2016 tax year account on September 18, 2020, and \$500.41 was transferred from appellant's 2018 tax year account to her 2016 tax year account on September 22, 2020.
4. On May 27, 2022, appellant untimely filed a 2016 California tax return, claiming a refund.
5. Respondent processed appellant's untimely 2016 California tax return. Respondent acknowledged an overpayment of \$2,889.32, and refunded \$478.54, which represents the amount paid within one year of the date that appellant filed the claim for refund. Respondent denied the remaining claim for refund in the amount of \$2,410.78 as barred by the statute of limitations.
6. Appellant timely filed this appeal.

2017 Tax Year

7. Respondent obtained information indicating that appellant received sufficient income to have a filing requirement for the 2017 tax year. However, respondent's records indicated that appellant had not filed a California tax return. Therefore, respondent issued appellant a Demand for Tax Return (Demand).
8. After appellant did not respond to the Demand, respondent issued an NPA for the 2017 tax year.
9. Respondent received payments from appellant via withholding credits of \$997.

10. On May 27, 2022, appellant untimely filed a 2017 California tax return, claiming a refund.
11. Respondent processed appellant's untimely 2017 California tax return. Respondent acknowledged an overpayment of \$374.24 but denied the claim for refund because the statute of limitations expired.
12. Appellant timely filed this appeal.

DISCUSSION

Since appellant did not file timely returns, the applicable claim for refund statute of limitations is the later of four years from the last day to file the return (without regard to any extension of time to file) or one year after the date of the overpayment. (R&TC, § 19306(a).) For the 2016 tax year, the four-year statute of limitations period expired on May 17, 2021 (four years from the return due date of April 15, 2017, plus a COVID-19 postponement).² For the 2017 tax year, the four-year statute of limitations period expired on April 15, 2022 (four years from the return due date of April 15, 2018). 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.)

2016 Tax Year

As to the four-year statute of limitations period, appellant filed her claim for refund on May 27, 2022, beyond the expiration of the statute of limitations on May 17, 2021. As to the one-year statute of limitations period, appellant's claim for refund was filed within one year of appellant's payments of \$478.54 (payments made after May 27, 2021). Thus, with respect to these payments, the claim for refund was filed within the one-year statute of limitations period. However, payments made before May 27, 2021, including appellant's withholding credits that are deemed paid on the return due date of April 15, 2017, are barred. (R&TC, § 19002(c)(1).) Thus, respondent properly refunded \$478.54 while disallowing the remaining amounts.

Appellant appears to contend that overpayment amounts from her 2018 and 2019 tax year accounts that were transferred as payments to the 2016 tax year should be treated as payments

² <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-03-state-tax-deadline-for-individuals-postponed-until-may-17-2021.html>.

made within the one-year statute of limitations period. However, payments that are transferred from another tax year are effective as of the date the payments are transferred. (R&TC, § 19383.) A payment of \$496.47 was transferred from appellant's 2019 tax year account to her 2016 tax year account on September 18, 2020, and a payment of \$500.41 was transferred from appellant's 2018 tax year account to her 2016 tax year account on September 22, 2020. Both payments were transferred before May 27, 2021, and are barred because appellant's claim for refund was filed after one year from the dates of the payments.

2017 Tax Year


As to the four-year statute of limitations period, appellant filed her claim for refund on May 27, 2022, after the expiration of the four-year statute of limitations on April 15, 2022. As to the one-year statute of limitations period, appellant's withholding credits are deemed paid on the return due date of April 15, 2018. (R&TC, § 19002(c)(1).) Thus, since appellant filed her refund claim on May 27, 2022, over one year after the date of the overpayments, these overpayments are barred under the one-year statute of limitations period.

HOLDING

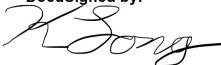
The statute of limitations partially bars appellant’s claim for refund for the 2016 tax year and fully bars appellant’s claim for refund for the 2017 tax year.

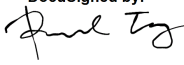
DISPOSITION

OTA sustains respondent’s partial denial of appellant’s claim for refund for the 2016 tax year and full denial of appellant’s claim for refund for the 2017 tax year.

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Huy “Mike” Le
Administrative Law Judge

We concur:

DocuSigned by:

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Keith T. Long
Administrative Law Judge

DocuSigned by:

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Richard Tay
Administrative Law Judge

Date Issued: 1/5/2024