

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
P. PAOPAO) OTA Case No. 230413058
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OPINION

Representing the Parties:

For Appellant: P. Paopao
For Respondent: Phillip C. Kleam, Attorney

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, P. Paopao (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$1,352 for the 2015 taxable year.

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 2015 barred by the statute of limitations?

FACTUAL FINDINGS

1. Appellant filed a 2015 California income tax return late on March 1, 2023. The return reported total tax of \$332 and withholdings of \$1,684 and requested a refund of \$1,352.
2. FTB denied appellant’s claim for refund based on the expiration of the statute of limitations.
3. This timely appeal followed.

DISCUSSION

Generally, no credit or refund of overpaid tax will 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).)¹ 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 late 2015 tax return on March 1, 2023. 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 expired on April 15, 2020, but was extended to July 15, 2020, due to the COVID-19 State of Emergency. (R&TC, § 19306(a); FTB Notice 2020-02.) Appellant, however, filed his return nearly three years later on March 1, 2023.

With regard to the one-year statute of limitations period, appellant's withholdings are deemed paid on the due date for the tax return, April 15, 2016. (R&TC, § 19002(c)(1).) Thus, to be within the one-year statute of limitations, appellant must have filed a claim for refund on or before April 15, 2017. Appellant's claim for refund, filed on March 1, 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 his driver's license expired in 2015; that he could not immediately reinstate it because his birth country transposed his middle and last names on his birth certificate; and that he could not resolve the birth certificate matter until 2022, after which appellant filed his 2015 tax return.

¹ R&TC section 19316(a) provides for a narrow exception under certain circumstances not relevant to this appeal.

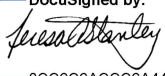
Appellant’s assertion only pertains to a claim of reasonable cause under the circumstances. Appellant does not explain why he needed a driver’s license in order to file his tax return. OTA is not aware of any law or rule that would require appellant to get a driver’s license prior to filing his tax return. Moreover, the statute of limitations may not be tolled based on either equitable grounds or reasonable cause. (*Appeal of Benemi Partners, L.P., supra.*)

HOLDING


Appellant’s claim for refund 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

We concur:

DocuSigned by:

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Andrew Wong
Administrative Law Judge

DocuSigned by:

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Richard Tay
Administrative Law Judge

Date Issued: 2/21/2024