

2. After receiving no response from appellants, respondent issued B. Ybarra a State Income Tax Balance Due Notice, which shows a balance due of \$2,873.39. Respondent initiated collection actions. Between October 15, 2021, and April 11, 2022, respondent collected a total of \$2,825.48 through involuntary collection actions and credit transfers from other tax years, which it applied to appellants' 2018 balance due. On August 3, 2023, respondent transferred \$124.33 from appellants' 2022 tax year account to their 2018 tax year account.
3. On July 26, 2023, appellants filed a 2018 joint return, which reported a total tax of \$1,540 and withholdings of \$1,535.
4. On August 15, 2023, respondent completed processing appellants' 2018 return and accepted it as filed. Respondent decreased the late filing penalty to \$5 and the accrued interest to \$1.22. After transferring \$124.64 to appellants' 2020 tax year account, respondent calculated an overpayment of \$2,814.26 for the 2018 tax year.¹ Respondent thus treated appellants' 2018 return as a claim for refund of \$2,814.26.
5. Respondent denied appellants' refund claim of \$2,814.26 due to the expiration of the statute of limitations.
6. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed unless a claim for refund is filed within the later of: (1) four years from the date the return was filed, if filed within the extended filing period; (2) four years from the due date of the return, without regard to extensions; or (3) one year from the date of the overpayment. The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) Unsupported assertions are insufficient to satisfy a taxpayer's burden of proof. (*Appeal of GEF Operating, Inc.*, 2020-OTA-057P.)

To fall within the four-year statute of limitations, appellants were required to file a refund claim no later than April 15, 2023, which is four years from the original filing due date of their 2018 return, April 15, 2019. Under the one-year statute of limitations, appellants were required

¹ Withholdings of \$1,535 + payment/transfers from other tax years of \$2,825.48 + transfer from appellants' 2022 tax year of \$124.33 + interest allowed of \$0.31 – total tax of \$1,540 – late filing penalty of \$5 – interest charged of \$1.22 – \$124.64 transferred to appellants' 2020 tax year = an overpayment of \$2,814.26.

to file their refund claim no later than April 11, 2023, which is one year from the latest date that respondent applied a payment to appellants' 2018 tax year account, April 11, 2022.²

Appellants argue that their claim for refund is not barred by the statute of limitations. Appellants assert that they filed a timely 2018 return but contend that the return was rejected for reasons unknown to them and then mailed the returns on two separate occasions to respondent. Appellants also assert that they need the refund from the 2018 return to pay their federal and state tax deficiencies.

Respondent submitted records indicating that it received appellants' 2018 return on July 26, 2023, and appellants have not submitted any evidence to the contrary.³ Respondent gave appellants an opportunity to provide any documents, such as a certified mailing receipt, to substantiate their assertions but no documents were provided. Appellants have failed to meet their burden of proving that their claim for refund was timely. (*Appeal of Jacqueline Mairghread Patterson Trust, supra.*) The evidence shows that appellants did not file a 2018 return until July 26, 2023, which is after both the four-year and one-year statute of limitations periods expired.

Appellants' failure to file a claim for refund within the statute of limitations, for any reason, bars them from later receiving a refund. (*Appeal of Estate of Gillespie, 2018-OTA-052P.*)⁴ The language of the statute of limitations must be strictly construed, and there is no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P., 2020-OTA-144P.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Jacqueline Mairghread Patterson Trust, supra.*) For the reasons described above, appellants' claim for refund is barred under the statute of limitations set forth in R&TC section 19306(a).

² Technically, respondent applied a payment of \$124.33 to appellants' 2018 tax year account on August 3, 2023. However, this amount was subsequently transferred and credited to appellants' 2020 tax year account and is no longer at issue in this appeal.

³ Appellants' return is signed and dated July 20, 2023.

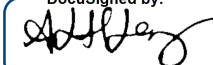
⁴ The period for filing a claim for refund may be suspended if a taxpayer is "financially disabled" as defined by R&TC section 19316. Appellants do not assert, and the record does not reflect, that they were financially disabled at any relevant time.

HOLDING

Appellants did not file a timely claim for refund for the 2018 tax year.

DISPOSITION

Respondent's action denying appellants' claim for refund is sustained.

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Andrea L.H. Long
Administrative Law Judge

Date Issued: 4/10/2024