

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:) OTA Case No. 230413119
J. HILL)
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OPINION

Representing the Parties:

For Appellant: Robin Brotman, CPA

For Respondent: Vivian Ho, Attorney

N. RALSTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Hill (appellant) appeals actions by the Franchise Tax Board (respondent) denying appellant’s claims for refund of \$940 for the 2016 tax year and \$7,504 for the 2017 tax year.

Appellant waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

Whether appellant’s claims for refund or credit for the 2016 and 2017 tax years are barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant made an estimated payment of \$4,500 on January 4, 2017, for the 2016 tax year. Appellant also made an extension payment of \$5,500 on April 15, 2017.
2. On September 5, 2018, and again on September 4, 2019, respondent notified appellant that it received payments from appellant but did not have a record of appellant’s 2016 California Income Tax Return (2016 return).
3. Appellant untimely filed his 2016 return on December 9, 2022, reporting that of his total claimed overpayment of \$940, he wished to have \$882 applied to his 2017 tax liability

- and the remaining \$58 applied to a self-assessed underpayment of estimated tax for the 2016 tax year.
4. Subsequently, respondent notified appellant that it denied his credit for overpayment of \$940 for the 2016 tax year as it was barred by the statute of limitations.
 5. For the 2017 tax year, appellant made an estimated tax payment of \$5,300 on January 2, 2018, and an extension payment of \$15,800 on April 15, 2018.
 6. On December 9, 2020, and again on December 9, 2021, respondent notified appellant that it received appellant's payment but did not have a record of appellant's 2017 California Income Tax Return (2017 return).
 7. Appellant untimely filed his 2017 return on December 15, 2022, reporting that of his total claimed overpayment of \$8,558, he wished to have \$8,423 applied to the succeeding tax year's liability and \$135 applied to his self-assessed underpayment of estimated tax for the 2017 tax year.
 8. Subsequently, respondent notified appellant that it denied his credit for overpayment of \$7,504 for the 2017 tax year as it was barred by the statute of limitations.¹

DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed or made 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 by the extended due date; (2) four years from the due date for filing a return (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. Due to the COVID-19 pandemic, respondent provided automatic extensions of time to file claims for refund until May 17, 2021, for the 2016 tax year.²

¹ The difference between appellant's claim for refund or credit of \$8,558 and respondent's denial of appellant's claim for refund or credit of \$7,504 results from appellant's election to apply \$135 to his self-assessed underpayment of estimated tax, appellant's election to apply \$882 of the 2016 overpayment to the 2017 tax year (which respondent disallowed as credit), and the difference in calculation of the underpayment of estimated tax penalty that appellant self-assessed of \$135 and what respondent determined was the correct penalty of \$172 (for an increased penalty of \$37). Therefore, respondent calculated appellant's claim for refund or credit as \$7,504 (i.e., \$8,558 - \$135 - \$882 - \$37).

² In response to the COVID-19 pandemic, respondent postponed the statute of limitations for refund claims that would have expired on April 15, 2021, such as appellant's 2016 tax year refund claim, to May 17, 2021. (See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-may-17-2021.html>.) That postponement does not affect the analysis here because appellant filed his 2016 tax year refund claim after May 17, 2021.

The taxpayer has the burden of proof in showing entitlement to a refund or credit and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) 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.) A taxpayer's failure to file a claim for refund or credit within the statutory period bars a refund or credit even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

2016 Tax Year

Since appellant did not file a timely 2016 return, the applicable statute of limitations is the later of four years from the last day prescribed for filing the tax 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 due date of April 15, 2017, plus additional time provided under the COVID-19 postponement).³ Appellant did not file a 2016 tax year claim for refund or credit until December 9, 2022. Appellant's claim for refund or credit for the 2016 tax year is therefore barred under the four-year statute of limitations.

The one-year statute of limitations only applies to payments made within one year of the date the claim for refund or credit is filed. (R&TC, § 19306(a).) The record shows that appellant made an extension payment on April 15, 2017. The record also shows that appellant made estimated tax payments and had tax withholdings that are all deemed paid on April 15, 2017. (See R&TC § 19002(c)(1), (c)(2), (d)(2).) Since appellant filed his claim for refund or credit on December 9, 2022, which is several years after the one-year statute of limitations expired on April 15, 2018, appellant's claim for refund or credit is barred by the one-year statute of limitations as well.

³ R&TC section 18572, which incorporates Internal Revenue Code section 7508A, generally gives respondent the authority to postpone certain tax-related deadlines. Respondent postponed the four-year statute of limitations for claiming a refund or credit for the 2016 tax year to May 17, 2021, due to the COVID-19 pandemic. (See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-may-17-2021.html>.)

2017 Tax Year

Since appellant also did not file a timely 2017 return, the applicable statute of limitations is the later of four years from the last day prescribed for filing the tax return (without regard to any extension of time to file) or one year from the date of the overpayment. (R&TC, § 19306(a).) For the 2017 tax year, the four-year statute of limitations period expired on April 15, 2022 (four years from the 2017 return due date of April 15, 2018). Appellant did not file a 2017 tax year claim for refund or credit until December 15, 2022. Appellant's claim for refund or credit for the 2017 tax year is therefore barred under the four-year statute of limitations.

The one-year statute of limitations only applies to payments made within one year of the date the claim for refund or credit is filed. (R&TC, § 19306(a).) The record shows that appellant made an extension payment on April 15, 2018. The record also shows that appellant made estimated tax payments and had tax withholdings that are all deemed paid on April 15, 2018. (R&TC § 19002(c)(1), (c)(2), (d)(2).) Since appellant filed his claim for refund or credit on December 15, 2022, which is several years after the one-year statute of limitations expired on April 15, 2019, appellant's claim for refund or credit is barred by the one-year statute of limitations as well.

Appellant does not dispute that he filed his claims for refund or credit after the expiration of the statutes of limitations. Rather, appellant asserts that respondent should grant his claims for refund or credit because he was unable to timely file his returns due to several personal difficulties. Appellant states that his wife passed away in 2014, and he was involved in a wrongful death lawsuit that continued through March 2017. Appellant states that he had to deal with many other issues surrounding his wife's death, including a dispute with Medicare. Appellant asserts that he also had his own health issues that lasted for four years, including hip replacement surgery, associated infections, and follow up surgeries. Appellant also states that he cared for his elderly mother and was the executor of her estate upon her death in 2016. Appellant also points out that he is nearing 80 years of age and does not use the internet or email.

While the Office of Tax Appeals (OTA) is sympathetic to appellant's situation, appellant's claims for refund or credit are barred under R&TC section 19306(a). Moreover, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*U.S. v. Brockamp* (1997) 519 U.S. 347; *Appeal of Benemi Partners, L.P.*, *supra*.) Further, neither the

ill health of a taxpayer, nor any other unfortunate circumstances can extend the statute of limitations for filing a claim for refund or credit. (*Appeal of Estate of Gillespie, supra.*) A taxpayer's untimely filing of a claim for any reason bars a refund. (*Appeal of Benemi Partners, L.P., supra.*) The statute of limitations must be strictly construed and cannot be tolled on an equitable basis or waived based on reasonable cause. (*Ibid.*)

Financial Disability

R&TC section 19316 provides that the period for filing a claim for refund or credit may be suspended, and therefore extended, if a taxpayer is "financially disabled," as defined in R&TC section 19316(b).⁴ When appellant alleges financial disability to suspend and thus extend the period to file a timely claim for refund or credit, a physician's affidavit must be provided that identifies the disability period when the taxpayer was unable to manage his or her financial affairs. (*Appeal of Estate of Gillespie, supra.*) Appellant bears the burden of proof to show that he was financially disabled. (*Ibid.*) During this appeal, respondent provided appellant with information about financial disability, including the required physician's affidavit form. Appellant has not argued that he was financially disabled during the relevant period and has not provided any evidence to support such a claim. OTA therefore has no basis upon which to find that appellant was financially disabled.

For the reasons explained above, without timely claims, appellant's claims for refund or credit are barred by the statute of limitations.

⁴ Financial disability exists if: (1) an "individual 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"; and (2) there is no spouse/registered domestic partner or other legally authorized person who can act on the taxpayer's behalf in financial matters. (R&TC, § 19316(b)(1)-(2).)

HOLDING

Appellant’s claims for refund or credit for the 2016 and 2017 tax years are barred by the statute of limitations.

DISPOSITION

Respondent’s actions denying appellant’s claims for refund or credit for the 2016 and 2017 tax years are sustained.

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Natasha Ralston
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Natasha Ralston
Administrative Law Judge

We concur:

DocuSigned by:
Kenneth Gast
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Kenneth Gast
Administrative Law Judge

DocuSigned by:
Andrew Wong
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Andrew Wong
Administrative Law Judge

Date Issued: 3/25/2024