

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:) OTA Case No. 230613713
L. DOMINGUEZ)
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OPINION

Representing the Parties:

For Appellant: L. Dominguez

For Respondent: Camille Dixon, Attorney

R. TAY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, L. Dominguez (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$4,863.95 for the 2017 tax year.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single administrative law judge. (See Gov. Code, § 15676.2(a).) The Office of Tax Appeals (OTA) decides this matter based on the written record because appellant waived the right to an oral hearing.

ISSUE

Whether appellant’s claim for refund for the 2017 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant filed a timely California income tax return for the 2017 tax year on April 15, 2018, reporting a tax due, which she paid in installments from June 7, 2018, to December 10, 2021.
2. Appellant subsequently filed an amended return, which FTB treated as a claim for refund, on May 26, 2023.

3. FTB denied appellant's claim for refund in a letter dated June 13, 2023.
4. This timely appeal follows.

DISCUSSION

A claim for credit or refund of an overpayment must be filed within four years from the date the return was filed, if the return was filed within an extension allowed by R&TC sections 18567 or 18604; within four years from the last day prescribed for filing the return without regard to any such extension; or within one year from the date of the overpayment, whichever time period expires later. (R&TC, § 19306(a).) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The taxpayer has the burden of proof to show that the claim for refund is timely and that a refund should be granted. (*Appeal of Cornerstone Compounding Pharmacy, Inc.*, 2021-OTA-196P.) Such fixed deadlines may appear harsh, particularly in cases such as this where a taxpayer cannot obtain a refund of an admitted and substantial overpayment; but the law considers such a harsh result to be an acceptable consequence of having an important obligation clearly defined. (*Appeal of Khan*, 2020-OTA-126P.)

Since appellant filed a timely 2017 California income tax return, the four-year statute of limitations to claim a refund expired on April 15, 2022. Appellant filed her claim for refund more than a year after the four-year statute of limitations expired. The one-year statute of limitations expired within one year of the date of the overpayment. Appellant's latest payment occurred on December 10, 2021. Therefore, the one-year statute of limitations for the last overpayment expired on December 10, 2022. Appellant filed a claim for refund on May 26, 2023, which is more than five months after the one-year statute expired.

In her opening brief, appellant admits she did not file a timely claim for refund for purposes of the four-year statute of limitations for the 2017 tax year. Appellant also did not file a timely claim for refund for purposes of the one-year statute of limitations. A taxpayer's failure to file a claim for refund or credit within the statutory period prevents the taxpayer from doing so at a later date. (*Appeal of Benemi Partners, L.P.*, *supra*; *Appeal of Khan*, *supra*.) Thus, appellant's request for a refund is barred by the statute of limitations for the reasons set forth above, and OTA finds no applicable recourse to refund or credit taxes paid since appellant's claims for refund were untimely.

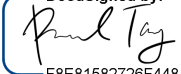
Appellant makes reasonable cause arguments to support her position. Appellant argues she is entitled to the refund she claimed on her amended return because her tax preparer made an error on her original income tax return and was unavailable due to the COVID-19 pandemic. Before appellant was able to get in contact with her preparer, the preparer retired. These facts allegedly prevented her from filing a timely claim for refund. However, there is generally no reasonable cause or equitable basis for suspending the statute of limitations.¹ (*Appeal of Benemi Partners, L.P., supra.*) OTA has no authority here to compel a refund of tax even if the tax is alleged to have been erroneously or wrongfully overpaid. (*Ibid.*) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) Thus, appellant's claim for refund is barred by the statute of limitations.

HOLDING

Appellant's claim for refund for the 2017 tax year is barred by the statute of limitations.

DISPOSITION

FTB's action is sustained in full.

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Richard Tay
Administrative Law Judge

Date Issued: 3/27/2024

¹ There are narrow exceptions where the statute of limitations provisions may be suspended, but appellant has not raised them on appeal and the facts do not support their application here. (See, e.g., R&TC, § 19316 [pertaining to financial disability].)