

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
N. QUESADA) OTA Case No. 230312703
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OPINION

Representing the Parties:

For Appellant: N. Quesada

For Respondent: Josh Ricafort, Attorney

For Office of Tax Appeals: Jacqueline Watson,
Graduate Student Assistant

A. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, N. Quesada (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$748 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 filed a timely claim for refund for the 2017 tax year.

FACTUAL FINDINGS

1. Appellant filed an untimely 2017 California Resident Income Tax Return on January 15, 2023. Appellant reported total tax of \$0 and withholdings of \$748.
2. FTB treated the return as a claim for refund of \$748 and denied the claim due to expiration of the statute of limitations.
3. Appellant filed this timely appeal.

DISCUSSION

R&TC section 19306 provides that no credit or refund 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 filed within 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 the overpayment. (R&TC, § 19306(a).) Tax withholdings are deemed paid on the original due date of the return. (R&TC, § 19002(c)(1).) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

Under the four-year statute of limitations, appellant was required to file a 2017 refund claim no later than April 15, 2022, which is four years from the original due date of the return. Under the one-year statute of limitations, appellant was required to file a claim for refund no later than April 15, 2019, which is one year from when appellant's California income tax withholdings were deemed to have been paid (i.e., April 15, 2018). (R&TC, § 19002(c)(1).) Appellant did not file a refund claim (i.e., the 2017 tax return) until January 15, 2023, which is after both the four-year and one-year statute of limitations periods expired.

Appellant contends she filed a 2017 tax return "that same year." Appellant has not presented any evidence that the 2017 tax return was filed within the statute of limitations. In addition, FTB's records indicate that appellant filed only one return on January 15, 2023. Therefore, appellant has not met her burden of proving that the refund claim was timely.

Appellant also asserts that "the amount given was not disclosed" and asserts that she needs her refund due to financial difficulties. The Office of Tax Appeals interprets appellant's first assertion to mean that appellant takes issue with the fact that FTB did not inform her that she was owed a refund. However, FTB is not obligated to inform a taxpayer of the time within which a claim must be filed. (*Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856.) Respondent also has no duty to discover appellant's overpayment or to notify appellant of such overpayment. (*Appeal of Cervantes* (74-SBE-029) 1974 WL 2844.)

Regarding appellant's second assertion, the Office of Tax Appeals cannot overlook the untimeliness of a taxpayer's refund claim and can only grant relief without a legislatively enacted exception to the statute of limitations. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) Appellant's failure to file a claim for refund within the statute of limitations, for any reason, bars

her from later receiving a refund. (*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.) 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.*)

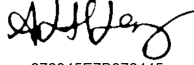
For the reasons described above, appellant’s claim for refund is barred under the statute of limitations described in R&TC section 19306(a).

HOLDING

Appellant did not file a timely claim for refund for the 2017 tax year.


DISPOSITION

FTB’s action denying appellant’s claim for refund is sustained.


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Andrea L.H. Long
Administrative Law Judge

We concur:

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Andrew Wong
Administrative Law Judge

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Richard Tay
Administrative Law Judge

Date Issued: 4/11/2024