

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: )  
P. YOUNG ) OTA Case No. 230914261  
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**OPINION**

Representing the Parties:

For Appellant: P. Young  
For Respondent: Camille Dixon, Attorney

N. RALSTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, P. Young (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$4,397.47 for the 2016 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. (Cal. Code Regs., tit. 18, § 30209.05.) Appellant waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

**ISSUE**

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

**FACTUAL FINDINGS**

1. Respondent obtained information through its Integrated Non-Filer Compliance program that appellant had sufficient income in 2016 that required appellant to file a 2016 California income tax return. However, respondent’s records indicated that appellant had not filed a 2016 California tax return.
2. On March 20, 2018, respondent issued a Demand for Tax Return (Demand) stating that appellant may have sufficient income to have a California filing requirement for the 2016 tax year. The Demand required appellant to file a 2016 tax return, send a copy of

- the tax return if one already had been filed, or explain why she was not required to file a 2016 tax return.
3. Appellant timely responded to the Demand by filing her 2016 return on April 11, 2018.
  4. Subsequently, respondent issued both a Notice of Tax Return Change – Revised Balance (Balance Notice) and a Notice of State Income Tax Due, both dated April 19, 2018. The notices informed appellant that respondent had made changes to appellant’s return and that appellant had a balance due.
  5. Appellant did not remit the amounts due, and respondent initiated collection action. Appellant satisfied the outstanding balance in 26 payments between September 15, 2018, and March 15, 2019, totaling \$2,018.47.<sup>1</sup> Appellant also had \$2,379 in withholding for a total amount of payments for the 2016 tax year of \$4,397.47.
  6. On July 10, 2023, appellant filed an amended return which reported an overpayment. Respondent accepted appellant’s amended return as a claim for refund, which respondent denied as barred by the statute of limitations.

#### DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. R&TC section 19306(a) provides that no credit or refund may be allowed or made if a claim for refund is not filed by the taxpayer 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 of the 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.<sup>2</sup> For purposes of the one-year statute of limitations, the date of an overpayment is the date of payment of the first amount that exceeds the tax liability and the dates of payment of all amounts subsequently paid with respect to such tax liability. (Treas. Reg. § 301.6611-1(b).)

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<sup>1</sup> The collected payments totaled \$2,045.53, less the \$27 underpayment of estimated tax penalty and a \$0.06 debit write off.

<sup>2</sup> 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 her 2016 tax year refund claim after May 17, 2021.

The taxpayer has the burden of proof to establish entitlement to a refund and that the refund claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Cornbleth*, 2019-OTA-408P.) Absent an exemption, a taxpayer's untimely filing of a claim bars a refund.<sup>3</sup> (*Appeal of Benemi Partners, L.P.*, *supra.*) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) The statute of limitations bars an untimely claim for refund even when it is shown that the tax was not owed in the first instance. (See *U.S. v. Dalm* (1990) 494 U.S. 596, 602.) Moreover, fixed deadlines may appear harsh because they can be missed; however, the resulting occasional harshness is redeemed by the clarity imparted. (*Prussner v. U.S.* (7th Cir. 1990) 896 F.2d 218, 222-223.) A statute of limitations promotes fairness and practicality in the administration of an income tax policy. (*Rothensies v. Electric Storage Battery Co.* (1946) 329 U.S. 296, 301.)

Appellant's 2016 amended return, which was filed on July 10, 2023, is treated as a claim for refund. Since appellant did not timely file her 2016 original return, the four-year statute of limitations expired on April 15, 2021.<sup>4</sup> Since appellant filed her claim for refund after this date, it is barred by the four-year statute of limitations. Appellant's claim for refund is also barred by the one-year statute of limitations. Appellant's most recent payment for the 2016 tax year was a \$73.59 bill payment on March 15, 2019. Thus, the one-year statute of limitations expired on March 15, 2020. As appellant's claim for refund was not filed until July 10, 2023, appellant's claim for refund is also barred by the one-year statute of limitations.

Appellant argues that she submitted the amended returns multiple times beginning in February 2020. Taxpayers attempting to prove that a paper return was timely mailed would have to show evidence, such as a registered or certified mail receipt, that the return was timely mailed and thus, timely filed with respondent. (*Appeal of Fisher*, 2022-OTA-337P; Gov. Code, § 11003; R&TC, § 21027; Cal. Code Regs., tit. 18, § 30219(a).) Here, appellant has submitted

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<sup>3</sup> Though not applicable here, financial disability due to a medically determinable physical or mental impairment is an example of an exception that may suspend the general statute of limitations period for refund claims. (R&TC, § 19316; *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

<sup>4</sup> As noted in footnote 2, claims for refund submitted by May 17, 2021, were deemed timely for purposes of the statute of limitations.

no evidence of timely mailing the claim for refund, despite being given the opportunity to do so.<sup>5</sup> Appellant bears the burden to show that the claim for refund was filed timely and has failed to do so. (*Ibid.*)

HOLDING

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

DISPOSITION

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

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*Natasha Ralston*  
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Natasha Ralston  
Administrative Law Judge

Date Issued: 5/9/2024

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<sup>5</sup> By letter dated February 7, 2024, the Office of Tax Appeals provided appellant the opportunity to submit any documentation or evidence to show that she timely filed her claim for refund. Appellant failed to respond.