

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
P. PATEL AND)
V. PATEL)
_____)
OTA Case No. 230613679

OPINION

Representing the Parties:

For Appellants: Aaron Farzan, Representative

For Respondent: Caitlin S. Russo, Legal Assistant

For Office of Tax Appeals: Steven Kim, Attorney

J. LAMBERT, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, P. Patel and V. Patel (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants’ claim for refund of \$5,050.48 for the 2016 tax year.¹

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

ISSUE

Whether appellants’ claim for refund for the 2016 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellants did not file a timely California tax return for the 2016 tax year.
2. FTB obtained Schedule K-1 information indicating that P. Patel received income from a California source in 2016.

¹ Appellants’ refund claim, which was made on a California tax return, did not state a refund amount. FTB calculated an overpayment of \$5,050.48 and treated it as a refund claim in that amount. Appellants state this amount as the dollar amount they are appealing.

3. FTB issued P. Patel a Demand for Tax Return (Demand) for the 2016 tax year and requested a response by the due date provided. P. Patel did not respond to the Demand.
4. FTB issued P. Patel a Notice of Proposed Assessment (NPA) for the 2016 tax year. FTB estimated P. Patel's income using the amount reported on the Schedule K-1, and after applying the standard deduction and exemption credits for a single individual with no dependents, computed a proposed tax. FTB also proposed the imposition of a late filing penalty, a demand penalty, and a filing enforcement fee, plus applicable interest. The NPA requested a response by the due date provided, and stated that the proposed assessment would become due and payable after that date. P. Patel did not timely respond to the NPA.
5. FTB initiated collection action. On November 4, 2021, FTB received a payment of \$5,050.48 from appellants, which was applied to their balance due for the 2016 tax year.
6. On February 28, 2023, appellants filed a 2016 California Nonresident or Part-Year Resident Income Tax Return reporting no California taxable income. FTB processed the return, calculated an overpayment of \$5,050.48, and treated the return as a claim for refund in that amount.
7. FTB denied the claim for refund.
8. Appellants timely filed this appeal.

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 the return was timely filed pursuant to an extension of time to file; (2) four years from the date the return was due, determined without regard to any extension of time to file; or (3) one year from the date of overpayment. The taxpayer bears the burden of proving that a claim for refund is timely and that the taxpayer is entitled to a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Because appellants did not file a timely tax return within the extension period, the first four-year statute of limitations period is inapplicable. Under the second four-year statute of limitations, appellants were required to file a refund claim no later than April 15, 2021, which is four years from the original due date of the return; however, due to the COVID-19 pandemic,

FTB postponed the April 15, 2021 refund claim due date to May 17, 2021.² Appellants did not file their claim for refund until February 28, 2023. In addition, FTB received the \$5,050.48 payment from appellants on November 4, 2021, which is more than one year from February 28, 2023, the date appellants filed their claim for refund. As a result, appellants' claim for refund is also barred under the one-year statute of limitations.

Appellants argue that they did not have a California filing requirement for 2016, and thus, the statute of limitations should not apply. However, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The language of the statute of limitations is explicit and must be strictly construed. (*Ibid.*) A taxpayer's untimely filing of a claim for any reason bars a refund 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. (*Ibid.*) Accordingly, appellants' argument that they did not have a California filing requirement is inapplicable to the determination of whether their claim for refund is barred by the statute of limitations.

² FTB postponed the deadline for claiming 2016 refunds to May 17, 2021, due to the COVID-19 pandemic. (<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>.)

HOLDING

Appellants’ claim for refund for the 2016 tax year is barred by the statute of limitations.

DISPOSITION

FTB’s action is sustained.

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Josh Lambert
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Josh Lambert
Administrative Law Judge

We concur:

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Huy “Mike” Le
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Huy “Mike” Le
Administrative Law Judge

DocuSigned by:
Lauren Katagihara
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Lauren Katagihara
Administrative Law Judge

Date Issued: 5/24/2024