

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 230613492
E. ESPLIN AND)
M. ESPLIN)
_____)

OPINION

Representing the Parties:

For Appellants: E. Esplin
M. Esplin

For Respondent: Alisa L. Pinarbasi, Attorney

For Office of Tax Appeals: Nguyen Dang, Attorney

K. GAST, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, E. Esplin and M. Esplin (appellants) appeal an action by the Franchise Tax Board (respondent) denying appellants’ claim for refund of \$7,910.96 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 are entitled to a refund of their overpayment for the 2016 tax year.

FACTUAL FINDINGS

1. Appellants did not timely file a California income tax return for the 2016 tax year.
2. After requesting but not receiving an income tax return from E. Esplin, respondent issued a Notice of Proposed Assessment (NPA) that proposed to assess tax, various penalties, a

¹ Appellants filed a California tax return requesting a refund of \$1,449. Respondent treated it as a claim for refund of \$7,910.96, which is the amount respondent calculated as appellants’ overpayment. Appellants’ appeal letter states \$7,911 as the amount being appealed.

- filing enforcement fee, and interest based on an estimate of E. Esplin's income. After appellants did not respond to the NPA, it went final and became due and payable.
3. From June 30, 2021, through September 22, 2021, respondent collected the assessed tax deficiency via wage garnishment.
 4. On April 6, 2023, appellants filed a joint 2016 California Resident Income Tax Return (Return) reporting a lower tax liability than what respondent had assessed and requesting a refund of \$1,449.
 5. Respondent processed the return and calculated an overpayment of \$7,910.96 for the 2016 tax year.
 6. On May 17, 2023, respondent notified appellants that their overpayment would not be credited or refunded to them because the Return was filed outside the limitation period for making a refund claim.
 7. This timely appeal followed.

DISCUSSION

Appellants do not dispute that their refund claim was untimely. Instead, appellants request that their refund be granted due to numerous critical medical issues in appellants' immediate family which they assert prevented them from filing the Return from 2017 through 2022.

Although the Office of Tax Appeals (OTA) is sympathetic to the difficulties that appellants describe, OTA lacks the authority to grant appellants' untimely refund claim. The law does not provide for an equitable or reasonable cause exception to the statute of limitations for making a refund claim.² (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This means that except in very limited situations which are not present here,³ a taxpayer's untimely filing of a

² The law generally requires that taxpayers file their refund claims by the later of: (1) four years from the date the return is filed, if filed on or before the extended due date; (2) four years from the due date of the return without regard to any extensions; or (3) one year from the date of overpayment. (R&TC, § 19306(a).)

³ For instance, R&TC section 19316 suspends the running of the statute of limitations during any period where the 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.

refund claim for *any reason* bars a refund. (*Ibid.*) “Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted.” (*Ibid.*)

HOLDING

Appellants are not entitled to a refund of their overpayment for the 2016 tax year.

DISPOSITION

Respondent’s action is sustained.

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Kenneth Gast
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Kenneth Gast
Administrative Law Judge

We concur:

DocuSigned by:
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: 6/4/2024