

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
J. HALL) OTA Case No. 230814191
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OPINION

Representing the Parties:

For Appellant: J. Hall

For Respondent: Camille Dixon, Attorney

For Office of Tax Appeals: Westley Marcelo, Attorney

H. LE, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Hall (appellant) appeals actions by the Franchise Tax Board (respondent) denying appellant’s claims for refund of \$5,181.66, \$2,817.83, and \$6,168.99 for the 2016, 2017, and 2018 tax years, respectively.

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

ISSUE

Whether appellant’s claims for refund for the 2016, 2017, and 2018 tax years are barred by the statute of limitations.

FACTUAL FINDINGS

2016 Tax Year

1. Appellant did not timely file a 2016 California income tax return.
2. Respondent sent appellant a Demand for Tax Return notice. Appellant did not respond to the notice.

3. Respondent issued appellant a Notice of Proposed Assessment (NPA), listing a proposed amount due of \$5,171.93. Appellant did not pay the amount due, or protest, by the stated deadline.
4. Respondent issued appellant a State Income Tax Balance Due Notice, listing a total balance of \$5,252.26. Appellant did not respond to the notice and respondent began collection actions.
5. Appellant's outstanding balance was satisfied by two payments: \$13.12 on September 15, 2020, and \$5,714.36 on May 2, 2022.
6. Appellant filed a 2016 California income tax return on May 5, 2023, reporting total tax of \$189.
7. Respondent processed the return and sent appellant a notice dated May 30, 2023, explaining that appellant's total overpayment of \$5,181.66 was disallowed from refund or credit because the statute of limitations had expired.¹ Appellant timely appealed.

2017 Tax Year

8. Appellant did not timely file a 2017 California income tax return.
9. Respondent sent appellant a Demand for Tax Return notice. Appellant did not respond to the notice.
10. Respondent issued appellant an NPA, listing a proposed amount due of \$2,543.85. Appellant did not pay the amount due, or protest, by the stated deadline.
11. Respondent issued appellant a State Income Tax Balance Due Notice dated, listing a total balance of \$2,580. Appellant did not respond to the notice and respondent began collection actions.
12. Appellant satisfied the outstanding balance by making a \$2,837.83 payment on May 2, 2022.
13. Appellant filed a 2017 California income tax return on May 5, 2023, reporting zero total tax.

¹ The overpayment figure of \$5,181.66 listed on respondent's notice represents appellant's total payments of \$5,727.48, less the following: total tax of \$189; a \$135 late filing penalty; a \$47.25 demand penalty; a \$93 filing enforcement fee; and \$81.57 in interest.

14. Respondent processed the return and sent appellant a notice dated May 30, 2023, explaining that appellant's total overpayment of \$2,817.83 was disallowed from refund or credit because the statute of limitations had expired.² Appellant timely appealed.

2018 Tax Year

15. Appellant did not timely file a 2018 California income tax return.
16. Respondent sent appellant a Demand for Tax Return notice. Appellant did not respond to the notice.
17. Respondent issued appellant an NPA, listing a proposed amount due of \$6,014.66. Appellant did not pay the amount due, or protest, by the stated deadline.
18. Respondent issued appellant a State Income Tax Balance Due Notice, listing a total balance of \$6,057.12. Appellant did not respond to the notice and respondent began collection actions.
19. Appellant's outstanding balance was satisfied by making payments of \$61.33 and \$6,180.90 on May 2, 2022.
20. Appellant filed a 2018 California income tax return on May 5, 2023, reporting total tax of \$21.
21. Respondent processed the return and issued appellant a notice dated May 30, 2023, explaining that appellant's total overpayment of \$6,168.99 was disallowed from refund or credit because the statute of limitations had expired.³ Appellant timely appealed.

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 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 due date for filing a return (determined without regard to any extension of time to file); or (3) one year from

² The overpayment figure of \$2,817.83 listed on respondent's notice represents appellant's payment of \$2,837.83, less the \$20 county lien fee. Respondent abated the following: a \$386 late filing penalty, a \$386 demand penalty, the \$93 filing enforcement fee, and resulting interest.

³ The overpayment figure of \$6,168.99 listed on respondent's notice represents appellant's total payments of \$6,242.23, less the following: tax of \$21; a \$21 late filing penalty; a \$5.25 demand penalty; a county lien fee of \$20; and \$5.99 in interest.

the date of overpayment. The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (Cal. Code Regs., tit. 18, § 30219(a)-(b); *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Cornbleth*, 2019-OTA-408P.) Absent an exception, a taxpayer's untimely filing of a claim for any reason bars a refund. (See *Appeal of Estate of Gillespie, supra.*) There is generally no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) 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.)

Respondent has no duty to discover, or provide notice of, a taxpayer's overpayment of income tax. (*Appeal of Cervantes*, (74-SBE-029) 1974 WL 2844.) Furthermore, respondent has no duty to inform a taxpayer of the time within which a claim must be filed. (*Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856.) Ignorance of the law does not excuse the delinquent filing of claims for refund. (*Appeal of Braeunig*, (70-SBE-004) 1970 WL 2439.)

Here, appellant's 2016, 2017, and 2018 tax returns—all filed on May 5, 2023—are treated as appellant's claims for refund. The applicable four-year statute of limitations period for appellant's refund claims expired four years from the original due date of each return: April 15, 2021, for the 2016 tax year, which was later postponed to May 17, 2021;⁴ April 15, 2022, for the 2017 tax year; and April 15, 2023, for the 2018 tax year. Appellant's claims for refund were filed after the applicable four-year statutory period expired for all the tax years at issue.

The alternative one-year statute of limitations period expired one year from the date of appellant's overpayments. For the two payments made towards the 2016 tax year account, appellant was required to file corresponding refund claims by September 15, 2021, and May 2, 2023. For the single payment made towards the 2017 tax year account, and the two payments made towards the 2018 tax year account, appellant was required to file a refund claim by May 2, 2023. Appellant's claims for refund were filed after the applicable one-year statutory

⁴ Respondent postponed the deadline for claiming 2016 tax year refunds to May 17, 2021, due to the COVID-19 pandemic. (See R&TC, § 18572; FTB, *State Postpones Deadlines For Claiming 2016 Tax Refunds to May 17, 2021*, news release (April 26, 2021) <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>.)

period expired for all payments. Because appellant did not timely file claims within the applicable four-year or one-year statutory periods for any of the tax years at issue, appellant's claims are time barred.

Appellant makes the following contentions as to why the time-barred overpayments should be refunded, without submitting any evidence to support the contentions. Appellant was faced with a real property refinance in 2022 due to pandemic-related cash flow issues, which required the payment of tax liens for the 2016, 2017, and 2018 tax years. After paying the liens, appellant began the process of preparing and filing tax returns that listed the correct amounts owed. The process included collecting tax records from four to six years prior. Before the returns could be filed, appellant claims to have contracted a tough case of COVID-19 on March 21, 2023, thus requiring appellant to isolate and medicate while unable to function for over a month. Lastly, appellant claims to have called respondent several times to get the relevant filing deadline dates but received no definitive dates in return. Appellant was allegedly unaware of when the various tax payments were made because they were submitted indirectly (i.e., as part of respondent's collection actions).

As an initial matter, appellant's stated financial complications and the difficulties in collecting old tax records generally constitute reasonable cause type of arguments. It is well settled, however, that the statute of limitations for refund claims cannot be suspended based on reasonable cause. (*Appeal of Benemi Partners, L.P., supra.*) Additionally, respondent did not have a duty to inform appellant of the time in which refund claims must be filed for the tax years at issue. (*Appeal of Matthiessen, supra.*)

Although the statute of limitations for refund claims is strictly construed, the limitations period may be tolled while an individual is "financially disabled," as defined in R&TC section 19316. An individual taxpayer is "financially disabled" if: (1) the taxpayer is unable to manage personal financial affairs due to 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; and (2) there is no spouse or other legally authorized person to act on the taxpayer's behalf in financial matters. (R&TC, § 19316(b); *Appeal of Estate of Gillespie, supra.*) Appellant's stated COVID-19 infection, which delayed appellant's tax return filings by less than two months, does not implicate the financial disability exception because appellant's

alleged period of physical or mental impairment did not last for at least 12 months, and was not deemed a terminal impairment.

Accordingly, respondent properly denied appellant’s refund claims for the 2016, 2017, and 2018 tax years.

HOLDING

Appellant’s claims for refund for the 2016, 2017, and 2018 tax years are barred by the statute of limitations.

DISPOSITION

Respondent’s actions denying appellant’s claims for refund are sustained.

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

We concur:

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Veronica I. Long
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Veronica I. Long
Administrative Law Judge

DocuSigned by:
Josh Lambert
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Josh Lambert
Administrative Law Judge

Date Issued: 7/3/2024