

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
C. GOLDSTEIN)
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)

OTA Case No. 230613540

OPINION

Representing the Parties:

For Appellant: C. Goldstein

For Respondent: Kristin K. Yeager, Program Specialist

For Office of Tax Appeals: Westley Marcelo, Attorney

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Goldstein (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$3,914.19 for the 2016 tax year.

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 for the 2016 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant timely filed a 2016 California Resident Income Tax Return on April 15, 2017, reporting a total tax of \$5,404, withholding of \$1,595, an underpayment of estimated tax penalty of \$74, and a total amount due of \$3,883.
2. Respondent issued appellant a Notice of State Income Tax Due on June 15, 2017, indicating taxes, a late payment penalty, and interest were owed. The total amount due was listed as \$4,064.37.

3. Appellant began making monthly payments towards the 2016 tax year account on October 22, 2018, to January 21, 2020. Appellant then began making bi-weekly payments for the period November 25, 2020, to October 27, 2021, and then made a payment on February 2, 2022. Respondent transferred \$690.79 to appellant's 2021 tax year account on April 29, 2022, and received a Treasury offset payment of \$507 on May 13, 2022. Appellant resumed bi-weekly payments for the period of August 25, 2022, to October 3, 2022. Appellant made three more payments during the period of January 3, 2023, to March 1, 2023.
4. Appellant filed a Form 540X, Amended Individual Income Tax Return, on February 28, 2023, adjusting the original tax return's total tax figure from \$5,404 to \$17, and claiming a refund of \$5,408.
5. Respondent processed appellant's return and subsequently issued a notice dated March 27, 2023, indicating that \$3,914.19 of appellant's \$5,135.71 overpayment was disallowed as a refund or credit because the statute of limitations had expired.¹ Respondent issued appellant a refund of \$1,869.81 on March 21, 2023.²
6. This timely appeal followed.
7. On appeal, respondent concedes that appellant is due an additional refund of \$27.98, plus interest.

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 the date of overpayment. For purposes of R&TC section 19306, amounts withheld are deemed

¹ The overpayment figure of \$5,135.71 listed on respondent's notice represents appellant's total payments of \$6,173.79, less the total tax listed on the amended return (\$17), less the amount transferred to appellant's 2020 tax year account (\$695.51), less the bad check fee (\$27.98), less a collection fee (\$287), less an installment agreement fee (\$34), and less the Treasury offset payment minus the Treasury offset fee (\$23.81) plus interest accrued (\$47.22).

² This figure consists of the \$695.51 transferred to appellant's 2020 tax year account and refund issued to appellant for \$1,221.52, less the interest of \$47.22.

to be paid on the original return due date. (R&TC, § 19002(c)(1).) 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.³ (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 tax return was timely filed on April 15, 2017. Therefore, the first four-year statute of limitations period is applicable. The four-year statutory period for appellant's refund claim expired on April 15, 2021 (four years from the original due date of the return) and was later postponed to May 17, 2021.⁴ Appellant's amended 2016 tax return, which was filed on February 28, 2023, is treated as appellant's claim for refund. Appellant's claim for refund was filed after the applicable four-year statutory period expired.

As to appellant's withholding payment, appellant was required to file a refund claim no later than April 15, 2018, which is one year from April 15, 2017, the date appellant's withholding tax payment was deemed paid. Appellant also made various payments from October 22, 2018, to March 1, 2023, towards the 2016 tax year account. Appellant filed a refund claim on February 28, 2023, after the one-year statute of limitations period expired for the

³ Though not applicable here, financial disability due to medically determinable physical or mental impairment of the taxpayer 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*, *supra*.)

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>.)

payments made up to February 27, 2022. As for the payments made on February 28, 2022, or later, appellant's claim for refund is timely under the one-year statute of limitations period. Respondent correspondingly refunded, or credited, appellant in the amount of \$1,869.81 for those payments. On appeal, respondent concedes that the amount paid during the one-year look-back period was in fact \$1,897.79 and will allow an additional refund of \$27.98, plus interest. All other overpayments were properly time barred from refund or credit.

Appellant makes various contentions as to why the time-barred overpayments should be refunded. First, appellant's 2016 tax return was completed by a professional third-party preparer, and appellant did not realize that the tax return erroneously listed a lump sum payment from an insurance company as taxable income. Second, after appellant had discovered the error, there were delays in finding a preparer to complete the amended return due to the COVID-19 pandemic. Lastly, appellant notes that respondent failed to mention the statute of limitations during their correspondence regarding the amended tax return. Appellant claims that respondent did not bring up the filing deadline for refund claims until after the amended tax return had been submitted.

Although the Office of Tax Appeals is sympathetic to appellant's contentions, the statute of limitations for claims for refund cannot be waived or suspended for appellant's time-barred overpayments. Appellant's mention of delays caused by the COVID-19 pandemic constitutes a reasonable cause argument, and it is well settled that the statutory period cannot be waived based on reasonable cause. (*Appeal of Benemi Partners, L.P., supra.*) In addition, respondent already postponed the deadline for claiming 2016 tax year refunds to May 17, 2021, due to the COVID-19 pandemic.⁵ As to the error committed by appellant's third-party tax preparer that resulted in the overpayment of tax, a taxpayer's failure to file a claim for refund within the statutory period bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) Lastly, respondent did not have a duty to inform appellant of the time in which a refund claim for the 2016 tax year must be filed. (*Appeal of Matthiessen, supra.*) Respondent also did not have a duty to discover or alert appellant as to the overpayment of taxes. (*Appeal of Cervantes, supra.*) For the reasons stated above, respondent properly denied appellant's refund claim for the remaining overpayments for the 2016 tax year.

⁵ See footnote 4.

HOLDING

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

DISPOSITION

Consistent with respondent’s concession on appeal, appellant is due an additional refund of \$27.98, plus interest. Otherwise, respondent’s action in denying appellant’s claim for refund is sustained.

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Veronica I. Long
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Veronica I. Long
Administrative Law Judge

We concur:

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Josh Lambert
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Josh Lambert
Administrative Law Judge

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Huy "Mike" Le
Administrative Law Judge

Date Issued: 6/17/2024