



- appellant R. Byrd earned income for the 2015 and 2016 tax years.<sup>1</sup> The 2015 NPA proposed to assess tax of \$6,063, plus penalties, interest, and a filing enforcement cost recovery fee (filing enforcement fee), minus income tax withholding credits of \$4,280. The 2016 NPA proposed to assess tax of \$6,902, plus penalties, interest, and a filing enforcement fee, minus income tax withholding credits of \$4,341.
3. Appellant R. Byrd did not timely protest the 2015 and 2016 NPAs, and so the NPAs became due and collectible. Between April 9, 2018, and November 1, 2018, FTB collected payments from appellants that satisfied appellant R. Byrd's 2015 tax liability. Between November 1, 2018, and January 15, 2019, FTB collected payments from appellants that satisfied appellant R. Byrd's 2016 tax liability.
  4. On August 9, 2023, appellants untimely filed joint California Resident Income Tax Returns (Returns) for the 2015 through 2017 tax years, which reported overpayments of tax and requested refunds.
  5. FTB processed appellants' 2015 through 2017 Returns, which it treated as claims for refund. In Statute of Limitations letters dated August 29, 2023, FTB informed appellants that it determined overpayments of \$6,093.34 for the 2015 tax year, \$6,822.35 for the 2016 tax year, and \$2,263 for the 2017 tax year, but denied refunds due to the expiration of the statute of limitations.
  6. This timely appeal followed.

#### DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed or made 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 for the year at issue (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. The taxpayer has the burden of proof in showing that the claim is timely and that a refund should be granted. (*Appeal of Cornerstone Compounding Pharmacy, Inc.*, 2021-OTA-196P.)

Appellants do not contest that their claims for refund were untimely filed within the four-year statute of limitations. Appellants' claims for refund were also untimely under the

---

<sup>1</sup> The income consisted of wage income reported on federal Form W-2 for the 2015 and 2016 tax years, and miscellaneous income reported on federal Form 1099-R.

one-year statute of limitations. Concerning income tax withholding made on behalf of appellant R. Byrd for purposes of R&TC section 19306, income tax withholding is generally deemed or considered paid on the due date for the applicable return. (See R&TC, § 19002(c)(1).) As the original due dates for the 2015, 2016, and 2017 Returns were April 15, 2016, April 15, 2017, and April 15, 2018, respectively, the income tax withholdings made on appellant R. Byrd's behalf are deemed to have been paid on those dates. However, appellants filed their claims for refund on August 9, 2023, outside of the respective one-year statute of limitations periods. FTB also collected payments from appellants for the 2015 tax year between April 9, 2018, and November 1, 2018, and for the 2016 tax year between November 1, 2018, and January 15, 2019. However, appellants filed their claims for refund on August 9, 2023, outside of the respective one-year statute of limitations periods.

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P (*Benemi*), citing *U. S. v. Brockamp* (1997) 519 U.S. 347, 351). The language of the statute of limitations is explicit and must be strictly construed. (*Benemi, supra.*) 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.*)

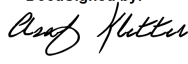
Here, appellants assert that FTB owes them a refund or credit. Appellants also assert that FTB collected payments that appellants did not owe. However, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Benemi, supra.*) Here, appellants' untimely filing of their 2015, 2016 and 2017 claims for refund bars any refund or credit. (R&TC, § 19306(a); *Benemi, supra.*)

HOLDING

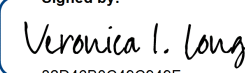
The statute of limitations bars appellants' claims for refund.

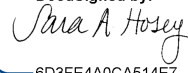
DISPOSITION

FTB's actions denying appellants' claims for refund are sustained.

DocuSigned by:  
  
D17AFEDDCAB045B...  
Asaf Kletter  
Administrative Law Judge

We concur:

Signed by:  
  
32D46B0C49C949F  
Veronica I. Long  
Administrative Law Judge

DocuSigned by:  
  
6D3FE4A0CA514E7...  
Sara A. Hosey  
Administrative Law Judge

Date Issued: 8/14/2024