

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
T. MAPLES) OTA Case No. 230613637
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OPINION

Representing the Parties:

For Appellant: Patrick Birchfield, CPA
T. Maples

For Respondent: Camille Dixon, Attorney

For Office of Tax Appeals: Louis Ambrose, Attorney

L. KATAGIHARA, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, T. Maples (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$5,489.94 for the 2018 tax year.¹

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 2018 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. FTB received an estimated tax payment from appellant for the 2018 tax year, but appellant had not filed a California income tax return for that year.

¹ Appellant’s claim for refund, which was made via his California tax return, was for \$5,495. However, FTB calculated appellant’s overpayment to be \$5,489.94. Appellant lists the same amount as the dollar amount of his appeal to the Office of Tax Appeals.

2. FTB subsequently received information that appellant made mortgage payments during 2018 which indicated to FTB that appellant may have had a filing requirement. Consequently, FTB issued a Demand for Tax Return (Demand) to appellant, but appellant did not respond.
3. FTB then issued a Notice of Proposed Assessment (NPA) to appellant based on the information available to FTB. The NPA proposed a net tax liability of \$3,329, a demand penalty of \$832.25, a late filing penalty of \$832.25, a filing enforcement cost recovery fee of \$97, and applicable interest. Appellant did not protest the NPA, and it became final.
4. FTB issued a State Income Tax Balance Due Notice followed by an Income Tax Due Notice. Appellant satisfied the balance due with a payment of \$5,178.69 on March 2, 2022. FTB's records also reflect that a 2017 tax year overpayment of \$340 was credited to appellant's 2018 tax year account on April 15, 2018.
5. On May 15, 2023, appellant and his spouse filed a joint return for the 2018 tax year.² The return reported total tax of \$23 and estimated tax payments of \$5,518 for the 2018 tax year, resulting in a claimed overpayment of \$5,495. FTB processed the return as a claim for refund, abated the late filing penalty and filing enforcement fee, and reduced the demand penalty.
6. Thereafter, FTB notified appellant acknowledging his overpayment for the 2018 tax year in the amount of \$5,489.94, but denying the claim for refund because a credit or refund of the overpayment was barred by the statute of limitations.
7. Appellant filed this timely appeal.

DISCUSSION

R&TC section 19306 imposes a statute of limitations to file a claim for refund. R&TC section 19306(a) provides, in part, 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 within the extended filing period pursuant to an extension of time to file; (2) four years from the due date prescribed for filing the return (determined without regard to any extension of time for filing the return); or (3) one year from the date of the overpayment. The

² The joint return was filed by appellant and his spouse who passed away prior to the filing of this appeal. Thus, this opinion refers only to T. Maples as the appellant.

taxpayer has the burden of proof in showing entitlement to a refund and that the claim for refund is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*Appeal of Cornbleth*, 2019-OTA-408P.) A taxpayer's failure to file a claim for refund, for whatever reason, within the statutory period bars the taxpayer from doing so later, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) While fixed deadlines may appear harsh because they can be missed, the resulting occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Appellant argues that his return (and therefore his claim for refund) was filed "before 4 years of the original due date and extension due date." In other words, appellant argues that the first four-year statute of limitations applies. However, appellant is mistaken. Although R&TC section 18567 allows for an automatic six-month extension to file a return, the extension is conditioned upon the filing of a return within that period. (See also Cal. Code Regs., tit. 18, § 18567.) If a return is not filed within six months of the original due date, no extension is allowed. (See Cal. Code Regs., tit. 18, § 18567.) Here, appellant did not file his return within six months of the original due date of April 15, 2019 (i.e., by October 15, 2019). Instead, appellant filed his return on May 15, 2023. Thus, no extension was allowed. The first four-year statute of limitations applies only to returns timely filed within the extended filing period pursuant to an extension of time to file. As that was not the case here, the first four-year statute of limitations is inapplicable.

Under the second four-year statute of limitations, appellant was required to file a claim for refund no later than April 15, 2023, which is four years from the original due date of the return. (See R&TC, § 19306(a).) Yet appellant did not file his claim for refund until May 15, 2023. Accordingly, appellant's claim for refund is barred under the applicable four-year statute of limitations. (*Ibid.*)

Finally, appellant's payments were made on April 15, 2018, and March 2, 2022. Both payments were made more than one year prior to appellant's May 15, 2023, claim for refund. As

such, appellant’s claim for refund is also barred under the one-year statute of limitations. (See R&TC, § 19306(a).)

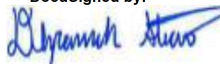
Appellant also states that the return was filed late because his wife, who was the bookkeeper, was ill and passed away. However, except in very limited situations which are not present here,³ there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P., supra.*)

HOLDING

Appellant’s claim for refund for the 2018 tax year is barred by the statute of limitations.

DISPOSITION

FTB’s denial of the claim for refund is sustained.

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For


Lauren Katagihara
Administrative Law Judge

We concur:

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Josh Lambert
Administrative Law Judge

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Asaf Kletter
Administrative Law Judge

Date Issued: 7/26/2024

³ For instance, R&TC section 19316 provides a narrow exception for suspending the statute of limitations for refund or credit claims 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. R&TC section 19316 can only apply when, among other things, there is no spouse legally authorized to act on the individual’s behalf in financial matters during the period of physical or mental impairment. Appellant has not provided any evidence to suggest that such an exception, or any other, applies here. (See *Appeal of Li*, 2020-OTA-095P [unsupported assertions are not sufficient to satisfy a taxpayer’s burden of proof].)