

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
W. WANG AND)
S. WANG)
)
)
)
)

OTA Case No. 240215272

OPINION

Representing the Parties:

For Appellants: W. Wang and S. Wang

For Respondent: Andrea Watkins, Attorney

J. LAMBERT, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, W. Wang and S. Wang (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants’ claim for refund of \$6,357.55 for the 2018 tax year.

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

ISSUE

Whether appellants’ claim for refund is barred by the statute of limitations.

FACTUAL FINDINGS

1. On October 14, 2019, appellants timely filed their joint California Resident Income Tax Return (return) for the 2018 tax year.
2. Appellants made payments towards their 2018 balance from April 15, 2018, through December 3, 2019.¹

¹ FTB refunded appellants’ payment of \$520.56 on December 3, 2019.

3. On November 15, 2023, appellants filed an amended return reporting a \$5,437 reduction in their tax liability.
4. FTB treated the return as a claim for refund and adjusted the overpayment to \$6,357.55.
5. FTB denied the claim for refund because it was barred by the statute of limitations.
6. This timely appeal followed.

DISCUSSION

The taxpayers have 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.) Taxpayers' 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.*)

Appellants do not dispute that their claim for refund was not timely filed within the statute of limitations.² Instead, appellants argue that the untimely filing was due to a delay by the IRS in auditing an estate from which they eventually received an amended Schedule K-1 that was reported on their amended return. The law does not provide for an equitable or reasonable cause exception to the statute of limitations for making a refund claim. (*Appeal of Benemi Partners, L.P., supra.*) This means that except in very limited situations which are not present here,³ a taxpayer's untimely filing of a refund claim for any reason bars a refund. (*Ibid.*)

When a change or correction is made or allowed by the IRS, a taxpayer may file a claim for refund within two years of the final federal determination. (R&TC, § 19311(a).) Appellants

² 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.

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.

do not provide any evidence of an IRS audit or determination as to the estate’s federal return. In addition, appellants’ federal account transcript does not indicate any federal adjustments.⁴ Instead, appellants’ transcript indicates that they filed a federal amended return on November 8, 2023, which was determined by the IRS to be a disallowed claim. Based on the foregoing, appellants have not shown that their claim for refund should be granted.

HOLDING

Appellants’ claim for refund is barred by the statute of limitations.

DISPOSITION

FTB’s action denying appellants’ claim for refund is sustained.

Signed by:
Josh Lambert
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Josh Lambert
Administrative Law Judge

We concur:

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Sara A. Hosey
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Sara A. Hosey
Administrative Law Judge

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

Date Issued: 9/13/2024

⁴ FTB asserts that it reviewed the federal account transcript for the trust and that it indicated no federal adjustments were made. However, the account transcript for the trust is not included in the record.