

**OFFICE OF TAX APPEALS
 STATE OF CALIFORNIA**

In the Matter of the Appeal of:
R. MANIACI

) OTA Case No. 240415950
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OPINION

Representing the Parties:

For Appellant:

R. Maniaci

For Respondent:

Caitlin S. Russo, Senior Legal Analyst

S. ELSOM, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Maniaci (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$4,655.69 for the 2017 tax year.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05.) 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 is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant did not timely file a 2017 California income tax return.
2. On September 16, 2019, respondent sent appellant a Demand for Tax Return (Demand) because respondent believed appellant had received sufficient income to prompt a filing requirement. The Demand informed appellant of applicable fees, penalties, and interest that would be assessed if appellant did not file a return.

3. On November 25, 2019, respondent sent appellant a Notice of Proposed Assessment (NPA), which estimated total tax of \$4,487, withholdings of \$2,963, and a net tax liability of \$1,524, plus penalties, fees, and applicable interest, for a total of \$3,273.04. Appellant did not respond to the NPA.
4. Respondent subsequently sent appellant a State Income Tax Balance Due Notice, followed by an Income Tax Due Notice and a Final Notice Before Levy and Lien (Final Notice). The Final Notice informed appellant that respondent may garnish wages and assess collection fees if appellant did not respond.
5. Respondent garnished a total of \$3,923.69 of appellant's wages between December 28, 2020, and June 24, 2021.
6. On March 14, 2024, appellant filed a California income tax return for the 2017 tax year with a head of household filing status, reporting total tax of \$1,532, income tax withholdings of \$2,963, and an overpayment of \$1,431. Respondent treated appellant's return as a claim for refund of \$4,655.69.¹
7. Respondent denied appellant's claim for refund due to the expiration of the statute of limitations.
8. This timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. The statute of limitations provides, in pertinent part, 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 for the year at issue (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. (R&TC, § 19306(a).) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

¹ Respondent calculated appellant's claim for refund as follows: \$2,963 (withholdings payments) plus \$3,923.69 (wages garnished) less \$1,532 (total tax) and \$383 (demand penalty) and \$316 (collection cost recovery fee), which equals \$4,655.69.

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The language of the statute of limitations is explicit and must be strictly construed. (*Ibid.*) 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.*) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

The first four-year statute of limitations period for filing a claim for refund is not applicable to appellant, as appellant did not file a timely return within the extended filing period. The second four-year statute of limitations period expired on April 15, 2022, which is four years from April 15, 2018, the original due date for appellant's 2017 return. (R&TC, §§ 18566, 19306(a).) Appellant filed a 2017 return (treated by respondent as a claim for refund) on March 14, 2024, after the expiration of the second four-year statute of limitations period. Therefore, appellant's claim for refund is barred under the four-year statute of limitations.

With respect to the one-year statute of limitations, appellant filed her 2017 return on March 24, 2024, which is more than one year later than June 24, 2021, the date that appellant made the last payment on the 2017 balance due. Therefore, appellant's claim for refund is also barred under the one-year statute of limitations.

At appeal, appellant makes reasonable cause type arguments to assert that she relied on her husband to timely file a 2017 tax return, stating specifically that "I thought my husband was filing taxes and he didn't file," and that the claim denial has caused a "hardship." While the Office of Tax Appeals sympathizes with appellant's circumstances, as stated above, there is no reasonable cause or equitable basis to suspend the statute of limitations for a claim for refund.

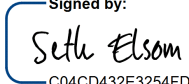
Based on the reasons stated above, appellant's 2017 claim for refund is barred by the statute of limitations.

HOLDING

Appellant's claim for refund is barred by the statute of limitations.

DISPOSITION

Respondent's action denying appellant's claim for refund is sustained.

Signed by:

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Seth Elsom
Hearing Officer

Date Issued: 9/18/2024