

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Appeal of: )  
J. YADEGAR AND )  
S. SAMUEL-YADEGAR )  
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OTA Case No. 240315637

**OPINION**

Representing the Parties:

For Appellants: Joseph Yafeh, CPA

For Respondent: Ganeet Atwaal, Legal Analyst

S. KIM, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Yadegar and S. Samuel-Yadegar (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$3,430.90 for the 2018 tax year.

Appellants 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.)

Appellants waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, (Regulation) section 30209(a).

**ISSUE**

Whether appellants' claim for refund for the 2018 tax year is barred by the statute of limitations.

**FACTUAL FINDINGS**

1. Appellants did not timely file a California income tax return for the 2018 tax year.
2. FTB received information indicating that appellants may have earned sufficient income to trigger a California filing requirement for the 2018 tax year. On January 26, 2021, FTB issued appellant a Demand for Tax Return (Demand) for the 2018 tax year. Appellant did not timely respond to the Demand.

3. On March 24, 2021, FTB issued appellant a Notice of Proposed Assessment (NPA) proposing tax of \$8,682, late filing penalty of \$834.25, demand penalty of \$2,170.50, a filing enforcement fee of \$97, plus applicable interest. After applying withholding credits of \$5,345, the net tax liability was \$3,337. Appellant did not timely respond to the NPA.
4. Subsequently, FTB initiated collection action and imposed a cost collection fee of \$316. On May 13, 2022, FTB received a payment of \$7,387.37. On August 15, 2022, FTB received a payment of \$29.29.
5. On December 11, 2023, appellants filed a 2018 tax return reporting total tax of \$6,470, withholding credits of \$5,138, and excess State Disability Insurance of \$4, resulting in a tax due of \$1,328. Appellants remitted a payment of \$1,328 with the return.
6. FTB processed appellants' return as filed and reduced appellant's total tax to \$6470, with penalties and interest adjusted accordingly, resulting in an overpayment of \$4,758.90. FTB treated appellants' return as a claim for refund. FTB issued appellants a refund of the December 11, 2023 payment of \$1,328 (plus \$8.16 of interest), which was applied to appellants' 2020 tax year account. FTB denied appellants' claim for refund of the remaining \$3,430.90 overpayment (\$4,758.90 - \$1,328).
7. Appellant timely filed this appeal.

### DISCUSSION

R&TC section 19306(a) provides, in relevant 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 date the return was due, determined without regard to any extension of time to file; or (3) one year from the date of overpayment. A taxpayer has the burden of proving entitlement to a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) The language of the statute of limitations is explicit and must be strictly construed, and there is no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) A taxpayer's failure, for whatever reason, to file a claim for refund or credit within the statutory period 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 failed to timely file a 2018 California income tax return. Thus, the four-year statute of limitations to file a claim for refund began to run on April 15, 2019 (the original due date of the return), and expired four years later, on April 15, 2023. (See R&TC,

§ 19306(a).) Appellants did not file their claim for refund until December 11, 2023. Therefore, appellants claim for refund is barred by the four-year statute of limitations.

Respondent received payments from appellant of \$7,387.37 on May 13, 2022, and \$29.29 on August 15, 2022, and the one-year statute of limitations to file a claim for refund for those payments expired on May 13, 2023, and August 15, 2023, respectively. Appellant also had withholding credits of \$5,345, which are deemed paid on the last day prescribed for filing the return, or April 15, 2019. (R&TC, § 19002(c)(1).) Therefore, the one-year statute of limitations for the withholding credits expired on April 15, 2020. Consequently, appellants December 11, 2023 claim for refund of the remaining \$3,430.90 overpayment is barred by the one-year statute of limitations.

#### HOLDING

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

#### DISPOSITION

FTB's action is sustained.

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*Steven Kim*  
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Steven Kim  
Administrative Law Judge

Date Issued: 11/15/2024