

- tax return; (2) providing evidence that he had already filed the return; or (3) showing that he was not required to file the return.
3. When appellant did not respond to the Request, FTB issued appellant a Notice of Proposed Assessment (NPA) dated May 21, 2018. The NPA estimated appellant's taxable income and proposed additional tax of \$3,946 (after application of appellant's payment of \$500) and a late filing penalty of \$986.50, plus applicable interest. The NPA informed appellant that it would become due and payable on July 20, 2018, unless appellant filed a protest by that date. Appellant did not timely protest the NPA, so it became final.
 4. On October 15, 2018, appellant made a payment of \$5,205.73. This payment and the extension payment of \$500 did not satisfy FTB's assessment. FTB issued a Final Notice Before Levy and Lien on December 3, 2018, demanding payment of \$32.22. Appellant paid \$32.22 on December 15, 2018, so that the total of appellant's payments for tax year 2016 was \$5,737.95.
 5. On December 8, 2022, appellant filed his California income tax return for 2016, reporting total tax of \$482. FTB accepted the 2016 return as filed and treated it as a claim for refund.
 6. In a letter dated December 20, 2022, FTB informed appellant that, after processing his 2016 return, appellant's account showed an overpayment of \$5,255.95,¹ which FTB could not refund because appellant's claim for refund was barred by the statute of limitations.

2017 Tax Year

7. Appellant did not file a timely California income tax return for the 2017 tax year. On April 15, 2018, the filing deadline, appellant made an extension payment of \$600.
8. On April 26, 2019, FTB mailed appellant a Demand for Tax Return. On September 4, 2019, FTB mailed appellant a Payment Received – No Return on File notice indicating that FTB had received appellant's payment of \$600 for the 2017 tax year but had no record of an income tax return filed for this tax year.

¹ Appellant's total payments of \$5,737.95 for the 2016 tax year minus total tax of \$482 reported per appellant's 2016 return.

9. FTB issued appellant an NPA dated February 27, 2020. The NPA estimated appellant's taxable income and proposed additional tax of \$2,090 (after application of appellant's payment of \$600), a late-filing penalty of \$522.50, a demand penalty of \$672.50, and a filing enforcement fee of \$93, plus applicable interest. Appellant did not protest the NPA, so it became final.
10. On July 27, 2020, FTB mailed appellant a State Income Tax Balance Due Notice. On September 22, 2020, FTB mailed appellant an Income Tax Due Notice. On October 28, 2020, FTB mailed appellant a Final Notice Before Levy and Lien.
11. Appellant remitted a payment of \$3,748 on January 11, 2021, and a payment of \$351.42 on May 7, 2021, which satisfied the balance due.
12. On December 8, 2022, appellant filed his California income tax return for tax year 2017, reporting total tax of \$504. FTB accepted the 2017 return as filed.
13. In a letter dated December 20, 2022, FTB informed appellant that, after processing his 2017 return, appellant's account showed an overpayment of \$3,752.10,² which FTB treated as a claim for refund. FTB also informed appellant that it denied his claim for refund because the statute of limitations had expired.
14. Appellant filed a timely appeal for each tax year.³

DISCUSSION

R&TC section 19306(a) provides 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 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 the overpayment. The taxpayer has the burden of proving that the claim for refund was timely and that the taxpayer is entitled to the refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

² Appellant's total payments for the 2017 tax return of \$4,669.42 (\$600 + \$3,748 + \$351.42), minus total tax of \$504 reported on appellant's 2017 return, a revised demand penalty of \$126, a collection cost recovery fee of \$316, and interest charged of \$1.32.

³ Appellant filed one appeal for the 2016 tax year and another appeal for the 2017 tax year, which were consolidated by the Office of Tax Appeals.

The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is no reasonable cause exception or equitable basis for suspending the statute of limitations. (*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. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) Neither ill health of a taxpayer nor any other unfortunate circumstance can extend the statute of limitations for filing a claim for refund. (*Appeal of Gillespie, supra.*) Although there is a statutory exception for financial disability, appellant has not asserted or established that this exception applies in this appeal.⁴ While the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Benemi Partners, L.P., supra.*)

In this appeal, it is not clear whether appellant argues that his claims were filed within the applicable statute of limitations provided in R&TC section 19306. Appellant contends that he was diagnosed with and receiving treatments for a serious medical condition "during this time." Appellant states that he did not "follow up to see if [his] return was filed" and filed his 2016 and 2017 returns "as soon as possible" when he found out they were missing. As such, appellant contends that he should be entitled to the full refunds for the 2016 and 2017 tax years.

With regard to the 2016 tax year, appellant filed his 2016 return (treated as a claim for refund) on December 8, 2022. Since appellant did not file a timely return, the applicable statute of limitations is the later of four years from the last day prescribed for filing the return (without regard to any extension of time to file) or one year after the date of the overpayment. (R&TC, § 19306(a).) The four-year statute of limitations period expired on April 15, 2021, which FTB postponed to May 17, 2021, due to the COVID-19 pandemic.⁵ Appellant did not file his claim for refund until December 8, 2022, over one and one-half years after the postponed four-year statute of limitations period had expired. All payments at issue for that year were made on or

⁴ For purposes of the Personal Income Tax Law, the statute of limitations may be tolled under certain circumstances during any period for which an individual taxpayer establishes a financial disability, which means that 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, § 19316.)

⁵ See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-may-17-2021.html>.

before December 15, 2018, which means that the one-year statute of limitations expired, at the latest, on December 15, 2019, almost three years before appellant filed his claim for the 2016 tax year. Therefore, the evidence establishes that appellant's claim for refund for the 2016 tax year was not filed within the applicable statute of limitations.

With regard to the 2017 tax year, appellant filed his 2017 return (treated as a claim for refund) on December 8, 2022. Since appellant did not file a timely return, the applicable statute of limitations is the later of four years from the last day prescribed for filing the return (without regard to any extension of time to file) or one year after the date of the overpayment. (R&TC, § 19306(a).) The four-year statute of limitations period expired on April 15, 2022 (four years from the due date of April 15, 2018). Appellant did not file a claim for refund until December 8, 2022. Appellant's claim for refund is, therefore, barred under the four-year statute of limitations period. The one-year statute of limitations for a claim for refund for the \$600 that appellant paid on April 15, 2018, was April 15, 2019. The deadline for the \$3,748 that appellant paid on January 11, 2021, was January 11, 2022, and the deadline for the \$351.42 that appellant paid on May 7, 2021, was May 7, 2022. Thus, appellant's claim for refund was filed beyond the one-year statute of limitations for each of appellant's payments for the 2017 tax year.

HOLDING

Appellant’s claims for refund for the 2016 and 2017 tax years are barred by the statute of limitations.

DISPOSITION

FTB’s actions denying appellant’s claims for refund for the 2016 and 2017 tax years are sustained.

Signed by:
Kim Wilson
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Kim Wilson
Hearing Officer

We concur:

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Michael F. Geary
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Michael F. Geary
Administrative Law Judge

DocuSigned by:
Amanda Vassigh
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Amanda Vassigh
Administrative Law Judge

Date Issued: 10/24/2024