

- Appellant R. Cain did not protest the 2017 NPA and the assessment became final and payable. FTB began involuntary collection action.
3. FTB later issued a Demand to appellant R. Cain for the 2018 tax year based on third-party information reporting that appellant R. Cain made mortgage payments but had not filed a return.
 4. Appellant R. Cain did not provide a response. FTB issued appellant R. Cain an NPA which estimated appellant R. Cain's income and proposed a tax liability, penalties, fees and interest totaling \$12,751.60. Appellant R. Cain did not protest the 2018 NPA and the assessment became final and payable. FTB imposed a collection fee and began involuntary collection action.
 5. FTB received two Web Pay payments on April 7, 2022: a return payment of \$14,479.72, designated for the 2017 tax year; and a return payment of \$13,338.81, designated for the 2018 tax year.
 6. Appellants untimely filed their joint 2017 and 2018 Nonresident or Part-Year Resident Income Tax Returns (returns) on October 3, 2023, and October 2, 2023, respectively, requesting refunds. FTB processed the returns and issued appellants letters denying the claims for refund because the statute of limitations had expired prior to appellants filing the returns.
 7. Appellants filed this timely appeal.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. R&TC section 19306(a) provides 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 (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. For purposes of R&TC section 19306, amounts withheld are deemed to be paid on the original return due date. (R&TC, § 19002(c)(1).) The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (Cal. Code Regs., tit. 18, § 30219(a)-(b); *Appeal of Estate of Gillespie*, 2018-OTA-052P.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

Here, appellants' 2017 and 2018 returns—untimely filed on October 3, 2023, and October 2, 2023, respectively—are treated as appellants' claims for refund. The four-year statute of limitations period for appellants' refund claims expired four years from the original due date of each return: April 15, 2022, for the 2017 tax year; and April 15, 2023, for the 2018 tax year. The alternative one-year statute of limitations period expired one year from the date of appellants' overpayments. (R&TC, § 19306.) For the tax years at issue, appellants' tax year balances were both paid in full on April 7, 2022, by two Web Pay payments. However, appellants' claims for refund were not filed within the applicable four-year or one-year statutory periods for any of the tax years at issue. Therefore, appellants' claims are time-barred.

Appellants do not contest that the refund claims for the tax years at issue were untimely filed. Appellants instead explain that the returns were filed late because they had no expectation of owing California taxes because they did not live or work in California for those tax years. Appellants also claim to have moved several times and despite filing change of address forms, had issues receiving mail at the proper address. Appellants also state that FTB did not inform them of, and they were unaware of, the statute of limitations for claiming a refund.

Appellants provide reasonable cause-type arguments to claim refunds outside of the statutory periods set forth in R&TC section 19306. It is well settled, however, that the statute of limitations for refund claims cannot be suspended based on reasonable cause. (*Appeal of Benemi Partners, L.P., supra.*) The language of the statute of limitations must be strictly construed. (*Ibid.*) Furthermore, 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. (*Appeal of Jacqueline Mairghread Patterson Trust, 2021-OTA-187P.*) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) Moreover, FTB does not have a duty to inform taxpayers of the statute of limitations. (*Appeal of Gleason (86-SBE-113) 1986 WL 22735.*) Accordingly, FTB properly denied appellants' refund claims for the 2017 and 2018 tax years.

HOLDING

Appellants have not shown that their claims for refund for the 2017 and 2018 tax years were filed before the expiration of the statute of limitations.

DISPOSITION

FTB’s actions denying appellants’ claims for refund are sustained.

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Sara A. Hosey
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Sara A. Hosey
Administrative Law Judge

We concur:

Signed by:
Josh Lambert
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Josh Lambert
Administrative Law Judge

DocuSigned by:
Asaf Kletter
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Asaf Kletter
Administrative Law Judge

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