

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of: E. HAMBLIN)))))	OTA Case No. 231214964
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OPINION

Representing the Parties:

For Appellant:	E. Hamblin
For Respondent:	Ariana Macedo, Graduate Legal Assistant

L. KATAGIHARA, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, E. Hamblin (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$16,501.64 for the 2017 tax year.

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

ISSUE

Whether appellant is entitled to a credit or refund of her overpayment for the 2017 tax year.

FACTUAL FINDINGS

1. Appellant did not timely file a California income tax return (Return) for the 2017 tax year.
2. FTB received information indicating that appellant received income in 2017 sufficient to trigger a filing requirement for that year. Based on that information, FTB issued a Demand for Tax Return to appellant, but appellant did not respond.
3. Consequently, FTB issued a Notice of Proposed Assessment (NPA) to appellant proposing to assess tax, penalties, interest, and a fee. Appellant did not respond to the NPA, so it became final.

4. On March 15, 2021, appellant made a payment of \$16,519.97 towards the 2017 tax year but still had not filed her Return.
5. On August 22, 2023, appellant late-filed her 2017 Return reporting no tax due.
6. FTB accepted the Return and treated it as a claim for refund of \$16,501.64. However, FTB denied the claim for refund because it was filed outside of the limitation period.
7. This timely appeal followed.

DISCUSSION

Appellant does not dispute that her claim for refund was untimely filed.¹ However, appellant requests that her claim nevertheless be granted because in 2017, she was experiencing financial hardship and was overwhelmed.² Appellant also states that a refund or credit would allow her to make repairs to her property and continue to provide low-cost housing to renters.

The Office of Tax Appeals (OTA) is sympathetic to appellant's situation. However, OTA lacks the authority to grant appellant's untimely refund claim. 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.*, 2020-OTA-144P.) 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.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

¹ The law generally requires that taxpayers file their refund claims by the later of: (1) four years from the date the return is filed, if filed on or before the extended due date; (2) four years from the due date of the return without regard to any extensions; or (3) one year from the date of overpayment. (R&TC, § 19306(a).)

² Appellant specifies that construction in downtown Oakland negatively impacted the sales of her business and as a result, she was required to work full-time in addition to running her business.

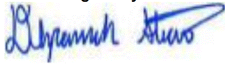
³ For instance, R&TC section 19316 suspends the running of the statute of limitations during any period where the taxpayer is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months.

HOLDING


Appellant is not entitled to a credit or refund of her overpayment for the 2017 tax year.


DISPOSITION

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

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Lauren Katagihara
Administrative Law Judge

We concur:

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Huy “Mike” Le
Administrative Law Judge

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Veronica I. Long
Administrative Law Judge

Date Issued: 7/31/2024