

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 230914423
S. ORLASKI)	
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OPINION

Representing the Parties:

For Appellant:	S. Orlaski
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For Respondent:	Ariana Macedo, Graduate Legal Assistant
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For Office of Tax Appeals:	Louis Ambrose, Attorney
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V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, S. Orlaski (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$2,007 for the 2018 tax year.

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 for the 2018 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant filed a 2018 California Resident Income Tax Return (return) on June 15, 2023, more than four years after the filing deadline of April 15, 2019. Appellant's return reported an overpayment and claim for refund of \$2,007.
2. FTB notified appellant in writing that the refund was denied because the claim was filed after the expiration of the statute of limitations. Appellant filed this timely appeal.

DISCUSSION

R&TC section 19306 imposes a statute of limitations to file a claim for refund. R&TC section 19306(a) provides, in part, 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 within the extended filing period pursuant to an extension of time to file; (2) four years from the due date prescribed for filing the return (determined without regard to any extension of time for filing the return); or (3) one year from the date of the overpayment. The taxpayer has the burden of proof in showing entitlement to a refund and that the claim for refund is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*Appeal of Cornbleth*, 2019-OTA-408P.) A taxpayer's failure to file a claim for refund, for whatever reason, within the statutory period bars the taxpayer from doing so later, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) While fixed deadlines may appear harsh because they can be missed, the resulting occasional harshness is redeemed by the clarity imparted. (*Ibid.*) Because appellant did not file a timely return, the applicable statute of limitations in this appeal is the later of four years from the last day prescribed for filing the tax return (without regard to any extension of time to file) or one year from the date of the overpayment. (R&TC, § 19306(a).)

For the 2018 tax year, the four-year statute of limitations expired on April 15, 2023, four years from the due date of the tax return, as appellant failed to file a timely return. Appellant's 2018 return was filed on June 15, 2023, after the expiration of the four-year statute of limitations. Therefore, FTB is barred from refunding or crediting any overpayment for the 2018 tax year under that provision.

The one-year statute of limitations only applies to payments made within one year of the date the claim for refund is filed. (R&TC, § 19306(a).) Appellant made a tax withholding payment, which is deemed made on the due date of the return. (R&TC, § 19002(c).) Thus, appellant's withholding of \$2,007 was deemed paid on April 15, 2019. Because the claim for refund was filed on June 15, 2023, only payments made after June 15, 2022, are eligible for

refund or credit. Accordingly, appellant's claim for refund is barred by the one-year statute of limitations.

Appellant states that she delayed filing her 2018 return because she was "waiting for 2016 refund from the IRS." She also states that her mother had a serious illness in 2018, that she was taking care of her mother's personal affairs which required monthly travel, that she had a long commute for her full-time job, and that she was laid off from her job in November of 2023. While the Office of Tax Appeals is sympathetic with appellant's hardships, except in very limited situations which are not present here,¹ there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P., supra.*)

¹ For instance, R&TC section 19316 provides a narrow exception for suspending the statute of limitations for refund or credit claims 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. Appellant has not asserted, nor does the record indicate, that such an exception, or any other, applies here.

HOLDING

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

DISPOSITION

FTB's denial of the claim for refund is sustained.

Signed by:

Veronica I. Long

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Veronica I. Long
Administrative Law Judge

We concur:

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Asaf Kletter

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Asaf Kletter
Administrative Law Judge

DocuSigned by:

Huy "Mike" Le

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Huy "Mike" Le
Administrative Law Judge

Date Issued: 8/15/2024