

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 240115243
A. NECHUTA)	
)	
)	
)	

OPINION

Representing the Parties:

For Appellant: A. Nechuta

For Respondent: Andrea Watkins, Legal Assistant

S. ELSOM, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, A. Nechuta (appellant) appeals actions by the Franchise Tax Board (respondent) denying appellant's claims for refund of \$2,508 for the 2015 tax year, \$3,562 for the 2016 tax year, \$3,325 for the 2017 tax year, and \$4,055 for the 2018 tax year.¹

Appellant 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, section 30209(a).

ISSUE

Whether appellant's claims for refund for the 2015, 2016, 2017 and 2018 tax years are barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant timely filed California income tax returns and paid the reported tax due for the 2015, 2016, 2017 and 2018 tax years. For all of the years at issue, appellant received pension income payments from the San Francisco Employee Retirement System (SFERS), which appellant included in her California Adjusted Gross Income (AGI).
2. Appellant accrued the SFERS pension income payments following the death of her spouse in 2014, who was previously employed by the San Francisco Police Department.

¹ The claim for refund amounts are net of computational adjustments made by respondent which appellant does not dispute. As a result, OTA does not address those adjustments further in this Opinion.

3. On January 23, 2015, appellant filed an “Application for Allowance-Death as a Result of Duty” with SFERS to reclassify the pension payments as disability payments.
4. The Office of Administrative Hearings (OAH) reviewed appellant's application and on July 25, 2023, determined appellant was due disability payments. In accordance with OAH's decision, SFERS approved appellant's application on October 25, 2023.
5. SFERS subsequently sent corrected Form 1099-R statements to appellant which reclassified all payments made by SFERS for the 2020, 2021, 2022 and 2023 tax years as nontaxable disability income. Due to the expiration of the federal statute of limitations, SFERS declined to send corrected 1099-R statements to appellant for years prior to 2020.²
6. On December 28, 2023, appellant filed separate claims for refund for the 2015, 2016, 2017 and 2018 tax years to remove the pension payment income from California AGI.
7. Respondent denied appellant's claim for refund for all years at issue due to the expiration of the statute of limitations.
8. This timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. The statute of limitations provides, in pertinent 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 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 overpayment. (R&TC, § 19306(a).) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020–OTA–144P (*Benemi*).)

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*U. S. v. Brockamp* (1997) 519 U.S. 347.) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi, supra.*) 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. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

² SFERS included a Summary Change Statement with its October 25, 2023 letter approving appellant's application which reclassified all pension income payments made to appellant from 2015 through 2019 as nontaxable disability income.

Here, appellant received pension income from SFERS in 2015, 2016, 2017 and 2018, which she reported as taxable income in each tax year and timely paid the corresponding tax liabilities. On July 14, 2023, OAH reclassified the pension income that appellant received in those years as disability payments. Based upon OAH's decision, SFERS issued corrected W-2 statements for the 2020 through 2023 tax years to reclassify the pension income payments as nontaxable income but declined to provide corrected W-2 statements for prior years due to the expiration of the statute of limitations. On December 28, 2023, following SFERS' determination, appellant filed claims for refund for the 2015, 2016, 2017 and 2018 tax years to reduce her California AGI by the amount of pension income previously reported.

Appellant timely filed each return before their original due dates. Therefore, the four-year statute of limitations began to run on the original due date of the return and expired four years later.³ The resulting four-year statute of limitations deadlines are: July 15, 2020, for the 2015 tax year;⁴ May 17, 2021, for the 2016 tax year;⁵ April 15, 2022, for the 2017 tax year; and April 15, 2023, for the 2018 tax year. Appellant filed claims for refund for the 2015, 2016, 2017 and 2018 tax years on December 28, 2023, after the expiration of the four-year statute of limitations for each of these tax years.

Under the one-year statute of limitations, appellant timely paid or had tax withheld for the 2015, 2016, 2017 and 2018 tax years. Under R&TC section 19002(c)(1) and (d)(2), amounts withheld for taxes and payments made before the due date of the return are considered as made on the return's due date. The time for appellant to claim refunds ends one year from the date of payment for each year, resulting in the following deadlines: April 15, 2017, for the 2015 tax year; April 15, 2018, for the 2016 tax year; April 15, 2019, for the 2017 tax year; and

³ Tax returns for calendar year taxpayers are due on or before April 15th following the close of the calendar year. (R&TC, § 18566.) A return filed before the due date for that return, is considered filed on the due date. (R&TC, §§ 19002(d)(1), 19066(b).).

⁴ Due to the COVID-19 state of emergency, respondent was authorized under R&TC section 18572 to postpone certain tax-related deadlines. (See *Appeal of Bannon*, 2023-OTA-096P.) Where an applicable statute of limitations to file a claim for refund expired between the period of March 12, 2020, to July 15, 2020, respondent considered a claim timely if filed on or before July 15, 2020. (See FTB Notice 2020-02 available at: <https://www.ftb.ca.gov/tax-pros/law/ftb-notices/2020-02.pdf>.) As such, to be timely, appellant was required to file a claim for refund for the 2015 tax year on or before July 15, 2020.

⁵ Respondent postponed the deadline for refund claims for the 2016 tax year to May 17, 2021. (See *State Postpones Deadline For Claiming 2016 Tax Refunds to May 17, 2021*, news release (April 26, 2021) available at: <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>.) Therefore, to be timely, appellant was required to file her claim for refund for the 2016 tax year on or before May 17, 2021.

April 15, 2020, for the 2018 tax year. As a result, appellant's claims for all years at issue are also barred under the one-year statute of limitations.

On appeal, appellant initially requests an exception to the statute of limitations to allow her claims based upon the date that SFERS reclassified her pension income, which occurred after the expiration of the statute of limitations. Appellant also argues that the "overpayment" date for the one-year statute of limitations is the date that SFERS reclassified her pension income as nontaxable, and as a result, the claims for refund for each year fall within the one-year statute of limitations. Appellant specifically states, "I assert that my original payments for tax years 2015-2018 were not and could not be classified as 'overpayments' until July 25, 2023, and the statute of limitations would therefore expire on July 25, 2024, one year from the date of the overpayment, in compliance with the law."

Here, there is no reasonable cause or equitable basis for suspending the statute of limitations.⁶ The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi, supra.*) "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." (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

While the determination that certain of appellant's income was non-taxable did not occur until July of 2023, the *payments* that appellant filed a claim for refund for were all made prior to the due date of the returns and thus deemed *paid* on the last date prescribed for filing those returns. (R&TC, § 19002(c)(1), (d)(2).) Consequently, the one-year statute of limitations on appellant's claims for refund expires one year from the due date for the returns, regardless of whether a subsequent determination was made rendering those payments "overpayments" because some item of income was determined to be non-taxable. Because appellant's claims

⁶ An exception to extend the statute of limitations can be made where a taxpayer is financially disabled. (*Appeal of Gillespie*, 2018-OTA-052P.) Revenue and Taxation Code section 19316 provides that the time for filing a claim for refund may be extended if a taxpayer is "financially disabled," as defined by that provision. The running of the period for filing a claim for refund pursuant to section 19306 is suspended if (1) an "individual 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," and (2) there is no spouse or other legally authorized person to act on the taxpayer's behalf in financial matters. This exception is not applicable to the facts of appellant's claims, and no other exceptions exist to extend the statute of limitations. Further, OTA does not have jurisdiction to allow an exception to extend the statute where it is otherwise not permitted by law.

for refund were all filed after one-year from the date of payment, they are barred under R&TC section 19306.

HOLDING

Appellant's claims for refund for the 2015, 2016, 2017 and 2018 tax years are barred by the statute of limitations.

DISPOSITION

Respondent's action is sustained.

Signed by:



0040B432E3254FD...

Seth Elsom
Hearing Officer

We concur:

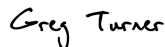
DocuSigned by:



0008A60D003E442...

Keith T. Long
Administrative Law Judge

Signed by:



1B3E30433F1D4D5...

Greg Turner
Administrative Law Judge

Date Issued: 1/7/2025