

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
G. HAWKINS) OTA Case No. 230713857
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OPINION

Representing the Parties:

For Appellant: Jennifer Shilling, EA

For Respondent: Noel Garcia-Rosenblum, Attorney

T. LEUNG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, G. Hawkins (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$19,431.37¹ for the 2014 taxable year.

Appellant waived her right to an oral hearing; therefore, this matter is being decided based on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether respondent refunded the correct amount of appellant’s 2014 overpayment.

FACTUAL FINDINGS

1. Appellant filed her 2014 California personal income tax return (Form 540) on February 24, 2022. Respondent accepted appellant’s 2014 Form 540, which reported an overpayment, and treated it as a claim for refund.
2. Prior to filing her 2014 Form 540, several payments were remitted to respondent. According to respondent’s records, many of those payments were consolidated under a single date; the consolidated date represented the date of consolidation (September 14, 2021), not the date of payment. Respondent separated the payments

¹ This is the amount claimed by appellant on her appeal; respondent’s notice denied \$19,496.74 of her refund.

consolidated under the September 14, 2021, date, refunded those payments made within the statute of limitations, and disallowed the rest.

3. Respondent refunded to appellant eligible payments made after February 24, 2021.
4. Appellant filed this appeal to recover additional overpayments that she claimed was paid after February 24, 2021.

DISCUSSION

Taxpayers have the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) Unsupported assertions are insufficient to meet this burden. (*Appeal of Magidow* (82-SBE-274) 1982 WL 11930.) Amounts withheld from wages are deemed paid on the original due date of the Form 540. (See R&TC, § 19002(c).) 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 original 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.)

Here, appellant filed her 2014 Form 540 on February 24, 2022; thus, neither of the two four-year refund statute of limitations applies, and only the one-year statute of limitations is available. Appellant claims refund of amounts identified in respondent's payment receipt log as having been made within the statute. However, respondent notes that the log entry actually reflects a consolidation of numerous prior payments, the date of entry representing the date consolidated in the log not the date when the several payments were actually made. After deconstructing the consolidated payments, respondent awarded some and denied other relief based on the date of actual payment. The record shows that respondent refunded payments made by appellant after February 24, 2021, and appellant did not submit any documentation (such as canceled checks, bank statements, etc.) to show that any of the denied payments were remitted after February 24, 2021. Hence, the law bars the refunding of the balance of appellant's 2014 overpayment.

HOLDING

Respondent refunded the correct amount of appellant's 2014 overpayment.

DISPOSITION

Respondent's action is sustained.

DocuSigned by:
Tommy Leung
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Tommy Leung
Administrative Law Judge

We concur:

Signed by:
Greg Turner
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Greg Turner
Administrative Law Judge

DocuSigned by:
Erica Parker
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Erica Parker
Hearing Officer

Date Issued: 12/19/2024