

3. Respondent denied appellants' refund claims for being untimely.

DISCUSSION

The taxpayer has 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.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*U.S. v. Brockamp* (1997) 519 U.S. 347; *Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Further, neither the ill health of a taxpayer, nor any other unfortunate circumstances can extend the statute of limitations for filing a claim for refund. (*Appeal of Estate of Gillespie (dec'd)*, 2018-OTA-052P.) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P., supra*; *Appeal of Estate of Gillespie (dec'd), supra*.)

In this appeal, neither of the four-year deadlines applies as appellants' claims were filed more than five years after the due dates of the 2017 and 2018 Forms 540. The one-year deadline also does not apply as there were no tax payments made between January 30, 2023, and January 30, 2024. Nevertheless, appellants argue, and respondent does not dispute, that the CRSC is not taxable. (See 10 U.S.C.A. § 1413A.) Appellants also submit letters from the Defense Department and the Veterans Administration allowing recipients of such income a six-year statute of limitations for claiming back pay and back taxes. However, those federal deadlines do not impact California's filing requirements and are not conformed to in California law. The refund statute of limitations is unforgiving and although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Prussner v. U.S.* (7th Cir. 1990) 896 F.2d 218, 222-223.)

HOLDING

Appellants' 2017 and 2018 claims for refund are untimely.

DISPOSITION

Respondent's actions are sustained.

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Tommy Leung
Administrative Law Judge

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