

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 240115103
 T. CLAYBORN)
)
)
)
)
)

OPINION

Representing the Parties:

For Appellant: Adam ElRod

For Respondent: Paige Chang, Attorney

N. RALSTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, T. Clayborn (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of \$2,735 for the 2018 tax year.

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

FACTUAL FINDINGS

1. On December 12, 2023, respondent received appellant's untimely 2018 resident income tax return. The return showed an overpayment of \$2,735 and requested a refund.
2. Respondent issued a Statute of Limitations letter disallowing the refund on the basis that appellant's claim for refund was filed after the expiration of the statute of limitations.
3. Appellant filed this timely appeal with OTA.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. R&TC section 19306(a) provides 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 (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. For purposes of R&TC section 19306, amounts withheld are deemed to be paid on the original return due date. (R&TC, § 19002(c)(1).) The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie (dec'd)*, 2018-OTA-052P.)

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Cornbleth*, 2019-OTA-408P.) Absent an exception, a taxpayer's untimely filing of a claim for any reason bars a refund. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is generally no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) The statute of limitations bars an untimely claim for refund even when it is shown that the tax was not owed in the first instance. (*Ibid.*; see *U.S. v. Dalm* (1990) 494 U.S. 596, 602.) Moreover, fixed deadlines may appear harsh because they can be missed; however, the resulting occasional harshness is redeemed by the clarity imparted. (*Appeal of Cornbleth, supra*, citing *Prussner v. U.S.* (7th Cir. 1990) 896 F.2d 218, 222-223.)

Here, appellant does not dispute that the refund claims were untimely filed. Instead, appellant explains that she had several circumstances which prevented her from being able to timely file her 2018 return. Appellant explained that she moved out of California and several documents were misplaced during the move. It is well settled that the statutory period cannot be waived based on reasonable cause, such as appellant's difficulty obtaining documents. (*Appeal of Benemi Partners, L.P., supra.*) Accordingly, appellant's claim is untimely and may not be refunded.

HOLDING

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

DISPOSITION

Respondent's action denying appellant's claim for refund is sustained.

Signed by:

Natasha Ralston

26F8FE08FF66478...

Natasha Ralston
Administrative Law Judge

We concur:

DocuSigned by:

Sheriene Anne Ridenour

67F043D92EE547C...

Sheriene Anne Ridenour
Administrative Law Judge

DocuSigned by:

Huy "Mike" Le

A11783ADD49442B...

Huy "Mike" Le
Administrative Law Judge

Date Issued: 2/11/2025