

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
V. RANDALL AND)
B. RANDALL)
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OTA Case No. 240115256

OPINION

Representing the Parties:

For Appellants: V. Randall

For Respondent: Tristen Thalhuber, Attorney

K. WILSON, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, V. Randall and B. Randall (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$7,906.63 for the 2018 tax year.

Appellants 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 the claim for refund and/or credit for the 2018 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. On April 15, 2019, FTB received an extension payment of \$7,000 for the 2018 tax year. However, appellants did not file a timely return with the payment.
2. Subsequently, FTB received information that V. Randall had sufficient income to require her to file a California Income Tax return.
3. On December 1, 2020, FTB sent a Request for Tax Return (Request) to V. Randall to either file a return, provide evidence that a return was already filed, or provide evidence that she did not have a filing requirement.

4. V. Randall did not respond to FTB's Request, so on February 12, 2021, FTB sent her a Notice of Proposed Assessment (NPA) proposing total tax of \$13,653, less withholding of \$145, for a net tax liability of \$13,508, a late-filing penalty of \$3,377, plus applicable interest. The deadline to protest the NPA was April 13, 2021.
5. On March 1, 2021, FTB received V. Randall's protest of the NPA dated February 19, 2021.
6. On June 14, 2021, FTB sent V. Randall a State Income Tax Balance Due Notice (Notice) for the amounts shown in the NPA notifying her to either pay the balance by June 29, 2021, or if she disagreed with the balance, to contact FTB.
7. On June 28, 2021, FTB received V. Randall's response to the Notice dated June 14, 2021, with a note stating that the Notice was not received by her until June 23, 2021. V. Randall also provided a copy of her February 19, 2021 protest letter.
8. On July 30, 2021, FTB sent V. Randall an Income Tax Due Notice informing her that FTB would be taking collection actions if she did not remit payment by August 14, 2021.
9. On August 12, 2021, V. Randall sent a letter to FTB documenting a telephone conversation she had with FTB and also informing FTB that she continued to dispute the NPA and that appellants were still waiting for their tax preparer to complete their 2018 tax return.
10. On September 3, 2021, FTB applied appellants' 2020 credit balance of \$131.52 to appellants' 2018 account balance.
11. On September 9, 2021, FTB sent V. Randall a Final Notice Before Levy and Lien (Final Notice) for the balance due.
12. FTB collected and/or received payments in response to the Final Notice as follows: \$500 on April 5, 2022; \$800.11 on August 15, 2022; \$3.09 on December 27, 2022; and \$2,000 on October 2, 2023. In addition, on September 29, 2023, FTB transferred a credit balance of \$2,001.53 from appellants' 2021 tax year to the 2018 tax year account balance.
13. On December 18, 2023, FTB received appellants' 2018 tax return reporting total tax of \$473, income tax withheld of \$304, estimated tax and other payments of \$7,000, and an overpayment of \$6,831.
14. On January 10, 2024, FTB sent appellants a Statute of Limitations letter, accepting their 2018 tax return as a claim for refund. FTB acknowledged that appellants had an overpayment of \$9,911.08, that \$7,906.63 was disallowed due to the expiration of the statute of limitations, and that on January 4, 2024, FTB refunded \$2,004.45 to

appellants. In addition, on January 4, 2024, FTB transferred \$2,015.56 from appellant's 2018 tax year to the 2022 tax year account balance.

15. In response to FTB's Statute of Limitations letter, appellants filed this timely appeal.
16. On appeal, FTB notes that its filing enforcement and collection action occurred despite appellant's timely protest of the NPA. As a result, FTB agrees to refund all remaining payments received pursuant to those collection actions in the amount of \$1,431.63.¹

DISCUSSION

The statute of limitations provides, in relevant 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 date the return was due, 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 proving that the claim for refund was timely and that the taxpayer is entitled to the refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is no reasonable cause exception or equitable basis for suspending the statute of limitations. (*Ibid.*) 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. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) Neither ill health of a taxpayer nor any other unfortunate circumstance can extend the statute of limitations for filing a claim for refund. (*Appeal of Estate of Gillespie, supra.*) While the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted.² (*Appeal of Benemi Partners, L.P., supra.*)

¹ This amount includes appellants' payments/transfers of \$131.52, \$500, \$800.11, \$3.09, \$2,001.53 and \$2,000, plus allowed interest of \$15.39 minus the refund of \$2,004.45 on January 4, 2024, and the transfer of \$2,015.56 to appellants' 2022 tax year account on January 4, 2024. ($\$131.52 + \$500 + \$800.11 + \$3.09 + \$2,001.53 + \$2,000 + \$15.39 - \$2,004.45 - \$2,015.56 = \$1,431.63$.)

² For purposes of the Personal Income Tax Law, the statute of limitations may be tolled under certain circumstances during any period for which an individual taxpayer establishes a financial disability. (R&TC, § 19316(a).) A taxpayer is financially disabled if: (1) 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, and (2) there is no spouse or other legally authorized person to act on the taxpayer's behalf in financial matters. (R&TC, § 19316(b).) Although there is a statutory exception for financial disability, appellants have not asserted or established that this exception applies in this appeal.

Appellants did not file a timely 2018 tax return within the extension period. Accordingly, the first four-year statute of limitations period is not applicable because appellants did not timely file a 2018 return subject to a valid extension. The second four-year statute of limitations period expired on April 15, 2023, because appellants' 2018 return was originally due on April 15, 2019. (R&TC, §§ 18566, 19306(a).) Appellants filed their return on December 18, 2023, which FTB accepted as a claim for refund. This was more than eight months after the expiration of the four-year statute of limitations period on April 15, 2023. Therefore, appellants' claim for refund is untimely under the four-year statute of limitations.

The one-year statute of limitations period runs one year from the date of payment. Withholding payments are deemed paid on the return filing due date. (Cal. Code Regs., tit. 18, § 19002(c)(1).) Thus, appellants' withholdings of \$304 is deemed paid on April 15, 2019. Appellants' extension payment of \$7,000 was also made on April 15, 2019. The one-year statute of limitations period for these payments/withholdings expired one year later on April 15, 2020. As such, appellants' December 18, 2023 claim for refund was beyond the one-year statute of limitations period for these payments/withholdings and is accordingly barred. If it is determined that there has been an overpayment of any liability imposed under the Personal Income Tax Law, by a taxpayer for any year for any reason, the amount of the overpayment may be credited against any amount due from the taxpayer and the balance shall be refunded to the taxpayer. (R&TC § 19301(a); *Appeal of Cornbleth*, 2019-OTA-408P.) The remaining payments made pursuant to FTB's collection actions were (or will be) refunded to appellants or were applied to other tax years since FTB should not have initiated collection actions on a non-final NPA that was under protest. Nevertheless, appellants did not file their claim for refund until December 18, 2023, therefore, the remaining overpayment of \$6,831³ is barred by the statute of limitations as set forth in R&TC section 19306.

Appellants contend that medical circumstances prevented the timely filing of the 2018 tax return and therefore, the claim for refund should be granted based on reasonable cause. Appellants also contend that due to COVID-19, they had trouble finding a tax preparer to file their missing tax returns. However, it is well established that taxpayers have a personal, non-delegable obligation to ensure their returns are filed timely, and reliance on an agent to perform this act does not constitute reasonable cause. (*Appeal of Fisher*, 2022-OTA-337P.) Furthermore, as stated above, there is no reasonable cause exception for suspending the

³ This amount is equal to appellants' withholdings of \$304 and estimated tax payment of \$7,000, minus the total tax reported per appellants' 2018 tax return of \$473. ($\$304 + \$7,000 - \$473 = \$6,831$.)

statute of limitations and neither ill health of appellants nor any other unfortunate circumstance can extend the statute of limitations for filing a claim for refund. (*Appeal of Estate of Gillespie, supra.*)

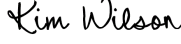
As explained above, a claim for refund that is filed after the expiration of the statute of limitations is statutorily barred. Appellants do not dispute that the claim for refund for the 2018 tax year was filed after the expiration of the statute of limitations. Appellants have not provided any legal basis to extend the statute of limitations. Therefore, appellants' remaining claim for refund is barred.

HOLDING

Appellants' remaining claim for refund and/or credit for the 2018 tax year in the amount of \$6,831 is barred by the statute of limitations.

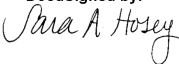
DISPOSITION

FTB's action denying appellants' claim for refund for tax year 2018 is modified to partially grant appellants' claim for refund in the amount of \$1,431.63. FTB's action denying appellants' remaining claim for refund in the amount of \$6,831 is sustained.


Signed by:

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Kim Wilson
Hearing Officer

We concur:

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Sara A. Hosey
Administrative Law Judge

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Michael F. Geary
Administrative Law Judge

Date Issued: 1/30/2025