

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 231114658
K. IMAMURA)	
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OPINION

Representing the Parties:

For Appellant:	K. Imamura
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For Respondent:	Ariana Macedo, Graduate Legal Assistant
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For Office of Tax Appeals:	Louis Ambrose, Attorney
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S. HOSEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, K. Imamura (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant's claims for refund of \$13,748.51 for the 2011 tax year and \$12,928.05 for the 2012 tax year.

Appellant waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

Whether appellant's claims for refund are barred by the statute of limitations.

FACTUAL FINDINGS

1. FTB received information that appellant had sufficient income in 2011 and 2012 to require appellant to file a California income tax return for both tax years.
2. Because appellant did not file an income tax return for either 2011 or 2012, FTB issued appellant a Demand for Tax Return (Demand) for each tax year and requested that appellant respond by filing the respective income tax returns, submitting copies of the returns if already filed, or providing an explanation as to why appellant was not required to file the returns.

3. Appellant did not respond to the Demands and FTB issued Notices of Proposed Assessment (NPAs) to appellant for the 2011 and 2012 tax years, which respectively estimated appellant's 2011 and 2012 income based on mortgage interest payment information and proposed tax, penalties, interest, and a fee. The NPAs stated that unless appellant filed tax returns or filed protests, the amounts would become due and payable. FTB's records do not show that appellant responded to the NPAs and the liabilities became final.
4. FTB subsequently issued an Intent to Record a Notice of State Tax Lien for the 2011 and 2012 tax years, which stated that appellant owed a balance of \$26,287.82 and FTB would record a Notice of Tax Lien against appellant's property if that amount was not paid within 30 days.
5. FTB collected payments of \$13,748.51 and \$13,073.40 for the 2011 and 2012 tax years, respectively. The payments were withdrawn from appellant's bank account and credited to appellant's 2011 and 2012 tax year accounts on November 17, 2015.
6. On June 29, 2023, appellant filed 2011 and 2012 tax returns reporting zero tax due for both years. FTB processed the returns and treated them as claims for refund. FTB notified appellant on July 31, 2023, that there were overpayments on appellant's tax year account of \$13,748.51 for 2011 and \$12,928.05 for 2012, respectively, but that any credit or refund was barred by the statute of limitations.
7. Appellant filed this timely appeal.

DISCUSSION

R&TC section 19306 imposes a statute of limitations to file a claim for refund. R&TC section 19306(a) provides, in part, that no credit or refund shall 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 prescribed for filing the return (determined without regard to any extension of time for filing the return); or (3) one year from the date of the overpayment. The taxpayer has the burden of proof in showing entitlement to a refund and that the claim for refund is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*Appeal of Cornbleth*, 2019-OTA-408P.) A taxpayer's failure to file a claim for

refund, for whatever reason, within the statutory period bars the taxpayer from doing so later, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) While fixed deadlines may appear harsh because they can be missed, the resulting occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Because appellant did not file timely returns, the applicable statute of limitations in this appeal is the later of four years from the last day prescribed for filing the tax return (without regard to any extension of time to file) or one year after the date of the overpayment. (R&TC, § 19306(a).) For the 2011 tax year, the four-year statute of limitations period expired on April 15, 2016 (four years from the return original filing due date of April 15, 2012), and for the 2012 tax year, it expired on April 15, 2017 (four years from the return original filing due date of April 15, 2013). Appellant did not file 2011 and 2012 returns until June 29, 2023, and the claims for refund for both tax years are therefore barred by the four-year statute of limitations.

The one-year statute of limitations only applies to payments made within one year of the date the claim for refund is filed. (R&TC, § 19306(a).) The payments credited to the 2011 and 2012 tax year accounts were made on November 17, 2015, more than one year prior to the date appellant filed the returns, June 29, 2023. Thus, the claims for refund of those payments are also barred by the one-year statute of limitations.

Appellant states that she mistakenly believed that she was no longer required to file California income tax returns when she stopped working in 2008. She further states that she became aware of her mistake when she discovered that \$5,973.71 had been withdrawn by FTB from her bank account on August 18, 2017, for the 2014 tax year. At that time, she claims that she also discovered that \$26,821.94 had been withdrawn on December 2, 2015, for the 2011 and 2012 tax years. Appellant asserts that she contacted FTB in August 2017, and submitted tax returns for the 2011 through 2016 tax years. Appellant states that the withdrawal order for the 2014 tax year was reversed but the orders for the 2011 and 2012 tax year withdrawals were not reversed.

There is no evidence that appellant filed the 2011 and 2012 returns in August 2017. However, even if the returns were filed at that time, appellant's claims for refund would still be barred by the statute of limitations. As noted above, the four-year limitations periods for 2011 and 2012 expired on April 15, 2016, and April 15, 2017, respectively, and the one-year

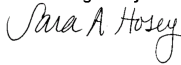
limitations period from date of payment expired on November 17, 2016. Furthermore, while appellant's failure to file returns may have been the result of a misunderstanding of the California tax laws, except in very limited situations which are not present here,¹ there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P., supra.*)

HOLDING


Appellant's claims for refund are barred by the statute of limitations.


DISPOSITION

FTB's denials of the claims for refund are sustained.

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Sara A. Hosey
Administrative Law Judge

We concur:

Signed by:

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Josh Lambert
Administrative Law Judge

DocuSigned by:

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Asaf Kletter
Administrative Law Judge

Date Issued: 8/19/2024

¹ For instance, R&TC section 19316 provides a narrow exception for suspending the statute of limitations for refund or credit claims where 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. Appellant has not asserted, nor does the record indicate, that such an exception, or any other, applies here.