

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
R. MOORE) OTA Case No. 240917322
)
)
)
)

OPINION

Representing the Parties:

For Appellant: R. Moore
For Respondent: Caitlin S. Russo, Analyst

S. ELSOM, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Moore (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$2,118 for the 2016 tax year.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05.) 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 is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant untimely filed a 2016 California income tax return on May 8, 2024, reporting withholdings of \$4,324, total tax of \$1,828, and overpaid tax of \$2,496.
2. Respondent processed appellant’s return and treated it as a claim for refund of \$2,118.¹

¹ Respondent reduced appellant’s reported claim for refund by \$378 due to appellant overreporting withholdings of \$4,324 on the 2016 return. On appeal, appellant states that he estimated the withholdings, which appears to have resulted in the overstatement. Appellant does not contest this adjustment to his claim for refund and this adjustment will not be addressed further in this Opinion.

3. Respondent subsequently sent appellant a letter on June 10, 2024, to deny the claim for refund due to the expiration of the statute of limitations.
4. This timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. The statute of limitations provides, in pertinent 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 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(a).) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020–OTA–144P (*Benemi*).)

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021–OTA–187P.) The language of the statute of limitations is explicit and must be strictly construed. (*Benemi, supra.*) 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. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Appellant did not timely file a return for the 2016 tax year during the extension period. As a result, the first four-year statute of limitations period does not apply. The original due date for filing the 2016 return was April 15, 2017, and the four-year statute of limitations expired four years later on May 17, 2021.² (R&TC, §§ 18566, 19306(a).) Appellant filed his 2016 return, treated by respondent as a claim for refund, on May 8, 2024. Thus, appellant's claim for refund for the 2016 tax year is untimely under the four-year statute of limitations.

Regarding the one-year statute of limitations, the time for appellant to file a claim for refund is one year from the date of overpayment. Appellant's only tax payments for the 2016 tax year were withholdings. Under R&TC section 19002(c)(1), tax deducted and withheld during the tax year is deemed to be paid on the original due date for the return (without regard to any extension of time for filing the return). A deadline of April 15, 2018, applies, which is

² See *State Postpones Deadline For Claiming 2016 Tax Refunds to May 17, 2021*, news release (April 26, 2021) available at: www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-may-17-2021.html.

one year from the due date of appellant's return. (R&TC, §§ 18566, 19306(a).) Therefore, appellant's claim for refund is also barred under the one-year statute of limitations.

At appeal, appellant makes several reasonable cause arguments in his request to toll the statute of limitations to allow his claim for refund. Appellant states that he lost his Form W-2 and, as a result, had insufficient information to prepare his California return. Appellant states that he later obtained IRS wage and income transcripts, which he used to prepare and file his California return. Additionally, appellant states the claim denial has caused financial hardship.


Though OTA is sympathetic to appellant's circumstances, unfortunately, as stated above, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Jacqueline Mairghread Patterson Trust, supra.*) The language of the statute of limitations is explicit and must be strictly construed. (*Benemi, supra.*) A taxpayer's untimely filing of a claim for any reason bars a refund. (*Ibid.*)

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:

C04CD432E3254ED
Seth Elsom
Hearing Officer

Date Issued: 3/4/2025