

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
E. GRAHAM) OTA Case No. 240616331
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OPINION

Representing the Parties:

For Appellant: E. Graham

For Respondent: Amelia Breen, Attorney

For Office of Tax Appeals: Amber Poon, Attorney

C. AKIN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, E. Graham (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$52,340.52 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 refund claim for the 2018 tax year is timely.

FACTUAL FINDINGS

1. Appellant reported being incarcerated out-of-state from January 2019 through September 2023.
2. Appellant filed a timely 2018 California Nonresident Income Tax Return (Return) on February 19, 2019.
3. Respondent issued notices informing appellant of an outstanding balance, including tax, penalties and interest.
4. Appellant made three payments totaling \$41,203.52 to his 2018 tax account: \$41,179 on March 15, 2019; \$24.36 on February 27, 2020; and \$0.16 on December 8, 2023. Appellant also reported California income tax withheld of \$11,494 on his Return.

5. Appellant filed an amended California return on March 1, 2024, reporting \$0 total tax.
6. Respondent processed appellant's amended return but did not credit or refund appellant's overpayment because respondent determined that such return was filed outside the limitation period for making a refund claim.
7. This timely appeal followed.

DISCUSSION

The law generally requires that taxpayers file their refund claims by the later of: (1) four years from the date the return is filed, if the return was timely filed within the extended filing period pursuant to an extension of time to file; (2) four years from the due date of the return without regard to any extensions; or (3) one year from the date of overpayment. (R&TC, § 19306(a).) A return that is filed before the due date for that return is treated as filed on the due date. (R&TC, § 19002(d)(1).)

Here, appellant filed his 2018 Return early on February 19, 2019. As such, this Return is treated as filed on the April 15, 2019 original due date for 2018 returns. (R&TC, §§ 19002(d)(1), 18566.) Thus, in order for appellant's refund claim to be considered timely under the applicable four-year limitation period, it must have been filed within four years from the due date of the Return without regard to any extensions (i.e., on or before April 15, 2023). (R&TC, § 19306(a).) Since appellant's March 1, 2024 refund claim was filed after the April 15, 2023 deadline, it is untimely under the applicable four-year limitation period. Thus, a refund can only be granted for appellant's 2018 tax year if appellant's claim for refund for that year was timely under the one-year statute of limitations period.

The one-year statute of limitations period begins to run from the date of payment. (R&TC, § 19306(a).) Appellant's California withholdings are deemed paid on the original due date of the Return (i.e., on April 15, 2019). (R&TC, § 19002(c)(1).) Appellant therefore had one year after the March 15, 2019, April 15, 2019, February 27, 2020, and December 8, 2023, payments to file a refund claim for each respective payment. (R&TC, § 19306(a).) Appellant's claim was not filed within one year of the first three payments made in March 2019, April 2019, and February 2020, and therefore, the claim is untimely under the one-year limitation period regarding those payments. Appellant's claim was filed within one year of the fourth payment made in December 2023. Thus, the claim is timely under the one-year limitation period regarding the nominal (\$0.16) payment made on December 8, 2023.

Appellant argues that the refund claim should be granted for equitable reasons. Namely, appellant claims to have detrimentally relied on a tax preparer when filing his Return and was

unable to monitor or rectify any error in his filing due to his incarceration from January 2019 to September 2023. Appellant also requests that OTA consider public policy and fairness, moral and ethical considerations, and personal and societal impacts including appellant's financial status. However, the language of the statute of limitations must be strictly construed, and there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Nor is there an exception that suspends the statute of limitations for claims for refund on the basis that the taxpayer was incarcerated or based upon the taxpayer's financial status. (See e.g., *Appeal of Estate of Gillespie*, 2018-OTA-052P [neither ill health of a taxpayer nor any other unfortunate circumstances can extend the statute of limitations for filing a claim for refund].) Absent a statutory exception, a taxpayer's untimely filing of a refund claim for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected.¹ (*Appeal of Benemi Partners, L.P.*, *supra.*) While OTA is sympathetic of the circumstances faced by appellant, without a legislatively enacted exception to the statute of limitations, OTA does not have the legal authority to alter the outcome of this matter in a more satisfactory way for appellant. (See *Appeal of Estate of Gillespie*, *supra.*)

¹ See for example R&TC section 19316 which permits the tolling of the statute of limitations where a taxpayer is "financially disabled." An individual taxpayer is financially disabled if: (1) he or she 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).) Here, appellant does not assert and there is nothing in the record to suggest that this statutory exception applies to appellant.

HOLDING

Appellant’s refund claim for the 2018 tax year is untimely, except for the nominal \$0.16 payment made in December 2023 which is timely under the one-year limitation period.

DISPOSITION

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

DocuSigned by:
Cheryl Akin
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Cheryl L. Akin
Administrative Law Judge

We concur:

Signed by:
Veronica I. Long
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Veronica I. Long
Administrative Law Judge

DocuSigned by:
Sara A. Hosey
6D3FE4A0CA514E7
Sara A. Hosey
Administrative Law Judge

Date Issued: 3/25/2025