

In the Matter of the Appeal of:) OTA Case No. 240415874
M. GOLESKI)
))
))
))
))

¹ Appellant also filed an appeal for tax year 2017; however, OTA does not have jurisdiction over tax year 2017 because appellant's appeal was filed untimely.

4. Appellant did not timely protest the NPA. On June 21, 2021, FTB issued a State Income Tax Balance Due Notice, and on August 9, 2021, FTB issued an Income Tax Due Notice indicating tax of \$18,692, a failure to file penalty of \$3,423, plus accrued interest.
5. On May 8, 2023, appellant made a payment of \$6,883.83, and on November 15, 2023, and December 15, 2023, appellant made two payments of \$1,401.41.
6. FTB received appellant's 2018 tax year return on December 15, 2023. The return reported total tax of \$4,278, and an other state tax credit of \$4,278, thus reporting zero tax liability.
7. FTB accepted the return as filed. Because of appellant's previous four payments for tax year 2018, FTB considered the return to be a claim for refund. FTB applied a credit of \$7,307.84 to tax year 2019, \$1,962.38 to the 2021 tax year, and \$453.64 to the 2022 tax year. After imposition of the collection cost recovery fee of \$316, FTB calculated a credit balance of \$4,684 for tax year 2018.²
8. FTB denied appellant's claim for refund for the balance, contending it was barred by the statute of limitations.
9. This timely appeal followed.

DISCUSSION

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 original 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).) A taxpayer bears the burden of proving entitlement to a refund claim and that the claim is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

The law does not provide for the waiver of the statute of limitations based on reasonable cause or equity. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) A taxpayer's failure, for whatever reason, to file a claim for refund or credit within the statutory period prevents the taxpayer from doing so at a later date. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) This is true even when it is later shown that the tax was not owed in the first instance. (*Appeal of Benemi Partners, L.P.*, *supra*.) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

² FTB also credited appellant's account with allowed interest of \$37.21.

R&TC section 19316 provides that the period for filing a claim for refund may be suspended, and therefore extended, if a taxpayer is “financially disabled,” as defined in R&TC section 19316(b). For purposes of R&TC section 19316, financial disability exists if: (1) an “individual 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/registered domestic partner or other legally authorized person who can act on the taxpayer’s behalf in financial matters. (R&TC, § 19316(b)(1)-(2).) When a taxpayer alleges financial disability to suspend and thus extend the period to file a timely claim for refund, a physician’s affidavit must be provided that identifies the disability period when the taxpayer was unable to manage his or her financial affairs. (*Appeal of Estate of Gillespie, supra.*) To suspend the statute of limitations, the period of financial disability must occur during the limitations period. (*Ibid.*)

On appeal, appellant asserts that the failure to timely claim a refund was due to health issues in 2019 and 2020. FTB informed appellant that, to claim financial disability, appellant would need to complete FTB Form 1564 “Financially Disabled – Suspension of SOL.” This form includes a physician affidavit that is required to be signed and completed to establish any period of financial disability. OTA subsequently provided an opportunity for appellant to file a reply brief and any additional documentation, but appellant did not do so. OTA has no record of appellant completing the required form to show financial disability.

Appellant’s 2018 return, which was filed on December 15, 2023, constituted the claim for refund. Because appellant did not file the return by the extended due date of October 15, 2019, the four-year statute of limitations began to run on the original due date of appellant’s 2018 return, April 15, 2019, and expired four years later on April 15, 2023. (R&TC, §§ 19306(a), 18566.) Appellant’s claim for refund is therefore barred under the four-year statute of limitations period.

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).) Since appellant’s claim for refund was filed on December 15, 2023, one year from that date is December 15, 2022. Thus, appellant’s overpayments made on May 8, 2023, November 15, 2023, and December 15, 2023, were timely, and FTB correctly applied this portion of the overpayment, plus allowed interest, to liabilities appellant owed for the 2019, 2021, and 2022 tax years.

However, the September 30, 2018 payment of \$5,000, which was reduced to \$4,684 after FTB applied the collection cost recovery fee of \$316, was remitted more than one year

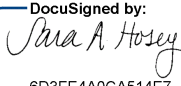
before appellant filed his refund claim.³ Accordingly, the one-year statute of limitations bars any refund of this overpayment. As appellant has not provided a legal basis to return the overpayment, FTB's action in denying the claim for refund must be sustained.

HOLDING


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

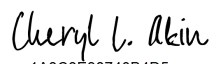
DISPOSITION

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

DocuSigned by:

6D3FE4A0CA514E7...
Sara A. Hosey
Administrative Law Judge

We concur:

Signed by:

32D46B0C49C949F
Veronica I. Long
Administrative Law Judge

DocuSigned by:

1A8C8E38740B4D5
Cheryl L. Akin
Administrative Law Judge

Date Issued: 3/19/2025

³ This payment is deemed paid on April 15, 2019, the original due date for appellant's 2018 return pursuant to R&TC section 19002(c)(2).