

- transferred the overpayment of \$3,151.24 to an outstanding balance from appellants' 2012 tax year.
2. On May 9, 2024, appellants filed an amended 2016 income tax return, claiming a refund of \$4,996.
 3. On June 15, 2024, FTB issued a letter denying appellants' claim for refund based on the statute of limitations expiring.
 4. This timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC Section 19306(a). The statute of limitation 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 due date of the return, without considering any extension period, (2) four years from the date of the return if it was filed within an extension period, or (3) one year from the date of overpayment. (R&TC, § 19306(a).) The taxpayers have the burden of proving that the claim for refund is timely and that they are entitled to a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*U.S. v. Brockamp* (1997) 519 U.S. 347.) Other than a narrow exception not relevant here,¹ a taxpayer's failure to file a claim for refund within the statutory period 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. (*U.S. v. Dalm* (1990) 494 U.S. 596, 602). The result of fixed deadlines may appear harsh, but the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Here, there is no dispute that appellants filed a timely return for the 2016 tax year on October 15, 2017. Therefore, the four-year statute of limitations to file a claim for refund began to run on the date the return was filed and expired on October 15, 2021. (R&TC, § 19306(a).)

¹ R&TC section 19316 provides a narrow exception for suspending the statute of limitations when a taxpayer is deemed "financially disabled." A financially disabled taxpayer is unable to manage personal financial affairs by reason of medically determinable physical or mental impairment that is either deemed to be terminal impairment or is expected to last for a continuous period not less than 12 months. (R&TC, § 19316(b)(1).) On appeal, appellants do not assert that they were financially disabled, nor does OTA find any evidence in the appeal record. Accordingly, OTA finds that R&TC section 19316 does not apply.

Appellants filed their claim for refund on May 9, 2024. Thus, under R&TC section 19306(a), the four-year statute of limitations expired prior to the appellants' filing the claim for refund.

The alternative one-year statute of limitations applies only to payments made within one year of the date the claim for refund is filed. (R&TC, § 19306(a).) For purposes of R&TC section 19306, withholding is treated as paid on the last day prescribed for filing the return. (R&TC, § 19002(c).) Here, appellants' payments include payments transferred to appellants' 2012 tax year account from the 2016 tax year of \$3,151.24 on October 17, 2017. Appellants filed a claim for refund on May 9, 2024, which is more than one year after the date of the payment. While appellants reported that they acted promptly and diligently by refiling both their federal and state income taxes shortly after they have received notice of the insolvency of their stock, acting with good faith and effort does not preclude the strict application of the statute of limitations. Under R&TC section 19306(a), appellants' claim for refund for the 2016 tax year is barred by the statute of limitations.

R&TC section 19312 sets forth a seven-year statute of limitations for a refund claim for a bad debt loss (as defined under Internal Revenue Code (IRC) section 166) or a worthless security loss (as defined under IRC section 166 or 165(g)). The statute of limitations provides that no return shall be allowed unless a claim for refund for a bad debt loss or a worthless security loss is filed within seven years from the date prescribed by law for filing the return for the year with respect to which the claim is made. (R&TC, § 19312.) R&TC section 18566 provides that the due date prescribed for filing a return for individual taxpayers is the 15th day of April following the close of the calendar year. A taxpayer bears the burden of proving entitlement to a refund claim. (*Appeal of Jali, LLC*, 2019-OTA-204P; *Appeal of Estate of Gillespie, supra*; Cal. Code Regs., tit. 19, § 30219(a).) Taxpayers must affirmatively establish the right to a refund of the taxes by a preponderance of the evidence. (*Gray et al. v. Franchise Tax Bd.* (1991) 235 Cal.App.3d 36, 40.)

Here, appellants' return was due on April 15, 2017. (R&TC, § 18566.) The seven-year statute of limitations to file a claim for refund for a bad debt loss began to run on the original due date and expired on April 15, 2024. (R&TC, § 19312.) Appellants filed their claim for refund on May 19, 2024. Thus, appellants' claim for refund is barred by the statutes of limitations under R&TC section 19312. Furthermore, appellants have not provided any evidence to prove the stock they claimed to have purchased had become worthless. Unsupported assertions are insufficient to satisfy a taxpayer's burden of proof. (*Appeal of Moren*, 2019-OTA-176P.) Thus, appellants have failed to show that these circumstances constitute bad debt loss. Even if they

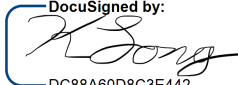
had provided evidence that the stocks were bad debts, their refund will be still barred by the statute of limitations as discussed above.

HOLDING

Appellants' claim for refund for the 2016 tax year is barred by the statute of limitations.

DISPOSITION

FTB's denial of appellants' claim for refund for the 2016 tax year is sustained.

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Keith T. Long
Administrative Law Judge

Date Issued: 5/15/2025