

In the Matter of the Appeal of:) OTA Case No. 230914362
A. JOHNSON)
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1. Appellant did not timely file a California personal income tax return (return) for the 2016, 2017, or 2018 tax years.
2. For the 2016 tax year, FTB obtained information indicating that appellant needed to file a return based on earned income. FTB requested a return from appellant, but he did not respond. On April 23, 2018, FTB issued to appellant a Notice of Proposed Assessment (NPA), which proposed to assess a tax liability of \$4,036, plus a penalty and interest. This NPA went final (i.e., became due and payable). Subsequently, FTB initiated

collection action and received payments totaling \$4,122.68 between December 31, 2018, and June 12, 2023.

3. For the 2017 tax year, FTB obtained third-party information indicating that appellant needed to file a return based on income he received. FTB demanded a return from appellant, who did not respond. On December 2, 2019, FTB issued to appellant an NPA, which proposed to assess a tax liability of \$2,010, plus penalties, interest, and a filing enforcement fee. This NPA also went final. Subsequently, FTB initiated collection action and received payments totaling \$3,391.01 between October 28, 2021, and January 30, 2023.
4. For the 2018 tax year, FTB obtained information indicating that appellant needed to file a return based on income he received. FTB demanded a return from appellant, who did not respond. On July 23, 2021, FTB issued to appellant an NPA, which proposed to assess a tax liability of \$2,319, plus penalties, interest, and a filing enforcement fee. This NPA went final. Subsequently, FTB initiated collection action and received payments totaling \$483.51 between January 30, 2023, and May 12, 2023. FTB also transferred an overpayment of \$1,339.97 from appellant's 2022 tax year account on May 25, 2023.
5. On June 5, 2023, appellant late-filed his returns for the 2016, 2017, and 2018 tax years, reporting the following: for 2016, a total tax of \$2,136 and, after claiming withholding credits of \$737, a balance due of \$1,399; for 2017, total tax due of \$750; and for 2018, a total tax of \$901 and, after claiming withholding credits of \$1,429, an overpayment of \$528.
6. FTB accepted appellant's late-filed returns as filed and reduced the proposed tax liabilities, penalties, and interest per the figures reported on these returns, resulting in overpayments of \$1,927.10 for 2016, \$1,669.54 for 2017, and \$2,126.23 for 2018. Accordingly, FTB treated the returns as claims for refund and determined that payments of \$49.75 for 2016 (received on June 12, 2023), \$1,516.49 for 2017 (received from June 28, 2022, through January 30, 2023), and \$1,823.48 for 2018 (received from January 30, 2023, through May 25, 2023) were refundable because it had received them within one year of June 5, 2023, the date appellant late-filed its returns for those tax years.
7. However, due to the statute of limitations, FTB denied appellant's claims for refund with respect to overpayments totaling \$1,877.35 for 2016 (after transferring \$49.77 to appellant's 2019 tax year account), \$153.05 for 2017 (after transferring \$1,518.61 to

appellant's 2019 tax year account), and \$302.75 for 2018 (after transferring \$1,826 to appellant's 2019 tax year account).

8. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed or made 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;¹ (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. In an action for refund, the taxpayer has the burden of proof to show that he or she is entitled to a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellant concedes that he late-filed his returns, which FTB treated as claims for refund, on June 5, 2023, after the statutes of limitations had expired for payments of \$1,877.35, \$153.05, and \$302.75 for the 2016, 2017, and 2018 tax years, respectively. The record also shows that appellant filed his returns after the applicable four-year and one-year statute of limitations.² Instead, on appeal, appellant argues that he had reasonable cause and/or equitable bases for filing late: the dissolution of his family, which caused emotional distress, and financial hardship resulting from losing his apartment and finding a new, more expensive one.

OTA sympathizes with appellant's situation. However, there is no reasonable cause or equitable basis for suspending the statute of limitations.³ (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Khan*, 2020-OTA-126P.) A taxpayer's failure to file a claim for refund within the statutory period for whatever reason bars the taxpayer from doing so at a later date. (*Ibid.*) The statute of limitations bars an untimely claim for refund even when it is shown that the tax was not owed in the first instance. (*Appeal of Benemi Partners, L.P., supra.*) Thus, OTA

¹ This four-year filing deadline is inapplicable to this case because appellant did not timely file his returns pursuant to an extension.

² Withholding credits are deemed paid on the last day prescribed for filing the return. (R&TC, § 19002(c)(1).)

³ The statute of limitations may be suspended when a taxpayer is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is either terminal or expected to last continuously for at least 12 months. (See R&TC, § 19316.) However, appellant does not argue, and the record does not show, that this is the case here.

concludes that the statute of limitations bars appellant's claims for refund of \$1,877.35, \$153.05, and \$302.75 for the 2016, 2017, and 2018 tax years, respectively.

HOLDING

The statute of limitations bars appellant's claims for refund for the 2016, 2017, and 2018 tax years.

DISPOSITION

FTB's actions denying appellant's claims for refund are sustained.

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Phyllis Mallard

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For

Andrew Wong
Administrative Law Judge

We concur:

Signed by:

Veronica I. Long

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Veronica I. Long
Administrative Law Judge

DocuSigned by:

Erica Parker

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Erica Parker
Hearing Officer

Date Issued: 6/18/2025