OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:

M. KRAMER

OTA Case No. 250118450

OPINION

Representing the Parties:

For Appellant: M. Kramer

For Respondent: Ariana Macedo, Graduate Legal Assistant

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Kramer (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of $2,143.01 for the 2019 taxable 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(b).) 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

Is appellant's claim for refund for the 2019 taxable year barred by the statute of limitations?

FACTUAL FINDINGS

1. Appellant did not file a 2019 tax return. FTB received information showing that appellant may have a 2019 filing requirement and issued a Request for Tax Return.
2. Appellant did not respond, and on February 18, 2022, FTB issued to appellant a Notice of Proposed Assessment proposing net tax of $1,580, a late-filing penalty of $395, plus interest.

3. Appellant made payments totaling $2,176.78[1] between August 26, 2022, and July 3, 2023.
4. Appellant filed a 2019 California Resident Income Tax Return late, on September 15, 2024, reporting zero total tax.
5. FTB accepted appellant's tax return as filed, treated it as a claim for refund of payments, and denied appellant's claim for refund due to the expiration of the statute of limitations.
6. This timely appeal followed.

DISCUSSION

With certain exceptions not at issue here, 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 to show entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) If a taxpayer fails to file a claim for refund within the statute of limitations, the claim is barred even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid*.)

Appellant failed to file a 2019 return by October 15, 2020, the extended due date for the return. (See R&TC, § 18567(a)(1); Cal. Code Regs., tit. 18, § 18567(a).) Therefore, the first four-year statute of limitations period is inapplicable. The second four-year statute of limitations period runs from the original due date of appellant's 2019 return, and thus expired on April 15, 2024, which is four years from the original April 15, 2020 due date for the return. (R&TC, §§ 19306(a), 18566.) Appellant, however, filed her return for the 2019 taxable year on September 15, 2024, which is beyond the second four-year statute of limitations period prescribed in R&TC section 19306(a).

Regarding the one-year statute of limitations period, appellant made payments between August 26, 2022, and July 3, 2023. Thus, to be within the one-year statute of limitations, appellant must have filed a claim for refund on or before July 3, 2024. Appellant's claim for refund, filed on September 15, 2024, is beyond the one-year statute of limitations prescribed in R&TC section 19306(a).

[1] Total payments of $2,177.01 shown on the Tax Year Current Values Display is $1.23 more than appellant paid. The error is nominal and in appellant's favor.

Appellant does not deny that her return was filed after the expiration of the statute of limitations. Rather, appellant asserts that she did not think she had taxable income because she was receiving a disability pension, which was reflected on FTB's Request for Tax Return as Los Angeles Fire and Police Pensions. Appellant states that she now understands that she must file tax returns. Appellant further contends that she is elderly, pressured by rising costs and higher taxes, and in need of the refund money.

Appellant's arguments regarding her failure to claim a refund prior to the expiration of the statute of limitations are unavailing. While OTA is sympathetic to appellant's situation, equitable circumstances do not allow a refund after the statute of limitations has expired. (*Appeal of Benemi Partners, L.P.*, *supra*.) As such, OTA has no basis to overturn FTB's action.

HOLDING

Appellant's claim for refund for the 2019 taxable year is barred by the statute of limitations.

DISPOSITION

OTA sustains FTB's action denying appellant's claim for refund.

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Teresa A. Stanley
Administrative Law Judge

Date Issued: 6/25/2025