

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
ESTATE OF G. ASHPAUGH) OTA Case No. 240917371
(DEC'D))
_____)

OPINION

Representing the Parties:

For Appellant: Michael Weinstein, Administrator

For Respondent: Ganeet Atwaal, Legal Analyst

S. ELSOM, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Estate of G. Ashpaugh (dec'd) (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of \$7,193 for the 2019 tax year.

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

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

FACTUAL FINDINGS

1. Appellant did not timely file a 2019 California income tax return.
2. On February 21, 2024, respondent sent appellant a Nonwage Withholding Credits – No Tax Return on File letter (Withholding Letter) informing appellant that it may be entitled to nonwage withholding credits of \$7,193 for the 2019 tax year but that respondent had no tax return on file for appellant. Respondent's letter informed appellant of the statute of limitations to file a claim for refund under R&TC section 19306(a).
3. On July 29, 2024, respondent received a 2019 Form 541 California Fiduciary Income Tax Return from appellant reporting taxable income of -\$3,000, withholdings of \$7,193, and an overpayment of \$7,193.

4. Respondent accepted appellant's return as filed and treated it as a claim for refund. Respondent subsequently sent appellant a Statute of Limitations letter denying appellant's claim for refund due to the expiration of the statute of limitations.
5. This timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. The statute of limitations provides, in pertinent 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 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 in showing entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P (*Benemi*).)

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) The language of the statute of limitations is explicit and must be strictly construed. (*Benemi, supra.*) A taxpayer's untimely filing of a claim for any reason 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. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Appellant filed its 2019 return, which respondent treated as a claim for refund, on July 29, 2024, beyond the period to timely file a return during the extension period. Thus, the first four-year statute of limitations period does not apply. The original due date for filing the 2019 return was April 15, 2020,¹ and the four-year statute of limitations expired four years later on April 15, 2024. (R&TC, §§ 18566, 19306(a).) Therefore, appellant's claim for refund is untimely under the second limitations period. For the foregoing reasons, appellant's claim for refund is barred under the four-year statute of limitations.

Regarding the one-year statute of limitations, the time for appellant to file a claim for refund is one year from the date of overpayment. Appellant's only tax payments for the 2019 tax year were withholdings. Under R&TC section 19002(c)(1), tax deducted and withheld

¹ In response to COVID-19, FTB postponed the deadline to file and pay taxes to July 15, 2020, for the 2019 tax year. (See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-5-april-15-tax-day-postponed-until-july-15-2020.html>.) The postponed due date did not change the original due date for filing a return. (*Appeal of Bannon*, 2023-OTA-096P.)

during the tax year is deemed to be paid on the original due date for the return (without regard to any extension of time for filing the return). A deadline of April 15, 2021, applies, which is one year from the due date of appellant's return. (R&TC, §§ 18566, 19306(a).) As stated above, appellant filed its claim for refund on July 29, 2024. Therefore, appellant's claim for refund is also barred under the one-year statute of limitations.

Appellant makes several reasonable cause type arguments in its request to toll the statute of limitations to allow the claim for refund. First, appellant asserts that respondent did not provide a response due date in the Withholdings Letter, and thus appellant was unaware of the statute of limitations period. Appellant further argues that its tax preparer was "booked [until] May 17, 2024," and thus appellant was unable to file a claim for refund within the statute of limitations period.

As stated above, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Jacqueline Mairghread Patterson Trust, supra.*) The language of the statute of limitations is explicit and must be strictly construed. (*Benemi, supra.*) A taxpayer's untimely filing of a claim for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) Further, respondent sent appellant the Withholding Letter on February 21, 2024, prior to the expiration of the statute of limitations period and informed appellant of the applicable statute of limitations under R&TC section 19306(a). Appellant did not timely file its claim for refund for the 2019 tax year, and the refund is therefore barred under the applicable statute of limitations.

HOLDING

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

DISPOSITION

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

Signed by:

Seth Elsom

C04CD432E3254FD...

Seth Elsom
Hearing Officer

We concur:

Signed by:

Natasha Ralston

25F8FE08FF56478

Natasha Ralston
Administrative Law Judge

DocuSigned by:

Teresa A. Stanley

8CC6C6ACCC6A44D

Teresa A. Stanley
Administrative Law Judge

Date Issued: 8/5/2025