

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
G. PARSONS) OTA Case No. 240917413
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OPINION

Representing the Parties:

For Appellant: Winston Parsons, Representative
For Respondent: Jeffrey Gates, Attorney
Cynthia Kent, Attorney Supervisor

T. LEUNG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, G. Parsons (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$2,429.92 for the 2017 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. (See Cal. Code Regs., tit. 18, § 30209.05(b).)

Office of Tax Appeals (OTA) Administrative Law Judge Tommy Leung held an electronic oral hearing for this matter on May 22, 2025. At the conclusion of the oral hearing, the record was closed, and this matter was submitted for a decision on the record. (See Cal. Code Regs., tit. 18, § 30209(b).)

ISSUE

Whether appellant’s 2017 refund claim is timely.

FACTUAL FINDINGS

1. Despite being sent a Request for Tax Return and a Notice of Proposed Assessment (NPA) in 2019, appellant did not file her 2017 California personal income tax return (Form 540) until May 15, 2024. Respondent processed appellant’s 2017 Form 540, which reported a \$2,429.92 overpayment. Respondent treated appellant’s 2017 Form 540 as a claim for refund, which it denied.

2. The NPA had imposed tax and penalties (plus interest), and after it became final, a bill was sent to appellant. When appellant did not remit payment, respondent commenced collection activities and appellant's outstanding balance was satisfied on February 26, 2021.

DISCUSSION

The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) Unsupported assertions are insufficient to meet this burden. (*Appeal of Chen and Chi*, 2020-OTA-021P; *Appeal of Magidow* (82-SBE-274) 1982 WL 11930.) Amounts withheld from wages are deemed paid on the original due date of the Form 540. (See R&TC, § 19002(c).) 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.)

Here, appellant's 2017 Form 540 was filed more than six years late. Thus, the four-year statute of limitations does not apply. Appellant's last payment on her 2017 account occurred in 2022, more than one year before the date of the 2024 refund claim. Thus, the one-year statute of limitations also does not apply.

During the hearing and in her opening brief, appellant asserted that her ill health caused her to file her 2017 Form 540 late. However, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*U.S. v. Brockamp* (1997) 519 U.S. 347; *Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Further, neither the ill health of a taxpayer, nor any other unfortunate circumstances can extend the statute of limitations for filing a claim for refund. (*Appeal of Estate of Gillespie (dec'd)*, 2018-OTA-052P.) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, *supra*; *Appeal of Estate of Gillespie (dec'd)*, *supra*.) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Prussner v. US.* (7th Cir. 1990) 896 F.2d 218, 222-223.)

Nevertheless, while California law does not permit equitable tolling of the statute of limitations for filing a refund claim, pursuant to R&TC section 19316, the time for filing a claim for refund may be extended during the period in which the taxpayer is financially disabled, as defined by R&TC section 19316(b). A taxpayer is considered financially disabled if: (1) the

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 or other legally authorized person to act on the taxpayer's behalf in financial matters. (R&TC, § 19316(b)(1) & (2).)

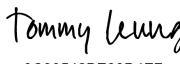
While appellant's circumstances are compelling, the record contains no evidence of any medical certification of her health during the relevant time period. In addition, appellant's son had a power of attorney for appellant since 2009, indicating that he was legally authorized to handle appellant's financial affairs, including the filing of her 2017 Form 540; the law makes no allowance for whether appellant's son actually exercised that authority. Hence, appellant does not qualify for financial disability relief.

HOLDING

Appellant's 2017 refund claim was not timely.

DISPOSITION

Respondent's action is sustained.

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Tommy Leung
Administrative Law Judge

Date Issued: 7/22/2025