

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 230713835
 C. CALLEN)
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OPINION

Representing the Parties:

For Appellant: Miguel A. Figueroa Flores, CPA

For Respondent: Alisa L. Pinarbasi, Attorney

S. RIDENOUR, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Callen (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claims for refund of \$1,961, \$1,644, \$2,011, and \$685 for the 2014, 2015, 2016, and 2017 tax years, respectively.

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

Whether appellant's claims for refund for the tax years at issue are barred by the statute of limitations.

FACTUAL FINDINGS

1. On June 6, 2023, FTB received appellant's untimely filed 2014, 2015, 2016, and 2017 tax returns. For each tax year, appellant reported income tax withholdings in excess of the tax due, claiming an overpayment.
2. FTB treated appellant's returns as claims for refunds, which it denied due to the statute of limitations.
3. This timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. R&TC section 19306(a) provides 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 (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. For purposes of R&TC section 19306, amounts withheld are deemed to be paid on the original return due date. (R&TC, § 19002(c)(1).) The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (Cal. Code Regs., tit. 18, § 30219(a)-(b); *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Cornbleth*, 2019-OTA-408P.) Absent an exception, a taxpayer's untimely filing of a claim for any reason bars a refund.¹ (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is generally no reasonable cause or equitable basis for suspending the statute of limitations. (*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. (See *U.S. v. Dalm* (1990) 494 U.S. 596, 602.) Moreover, fixed deadlines may appear harsh because they can be missed; however, the resulting occasional harshness is redeemed by the clarity imparted. (*Prussner v. U.S.* (7th Cir. 1990) 896 F.2d 218, 222-223.) A statute of limitations promotes fairness and practicality in the administration of an income tax policy. (*Rothensies v. Electric Storage Battery Co.* (1946) 329 U.S. 296, 301.)

Appellant's 2014 through 2017 tax returns, which were untimely filed on June 6, 2023, are treated as appellant's claims for refund for the applicable tax years. The applicable four-year statute of limitations period for appellant's 2014, 2015, 2016, and 2017 refund claims,

¹ Though not applicable here, financial disability due to medically determined physical or mental impairment of the taxpayer is an example of an exception that may suspended the general statute of limitations period for refund claims. (R&TC, § 19316; *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

expired on April 15 of 2019, 2020,² 2021,³ and 2022, respectively, which is four years from the original due date of the applicable return. Under the one-year statute of limitations period, appellant was required to file a refund claim no later than April 15 of 2016, 2017, 2018, and 2019, which is one year from the date appellant's tax withholdings are deemed paid for the 2014, 2015, 2016, and 2017 tax year, respectively. (R&TC, § 19002(c).) Appellant did not timely file a claim for refund within the four-year or one-year statute of limitations for any of the tax years at issue; therefore, appellant's claims are barred by the statute of limitations.

Appellant contends that he was unable to file his tax returns earlier as he was trying to obtain Forms 1099-K for the 2014 through 2021 tax years from E*Trade. Appellant argues that E*Trade, an online brokerage and trading platform, blocked appellant's access to his online monthly and annual reports, and his Forms 1099-K, and refused to mail appellant the documentation or update his address in its system. Appellant asserts that he contacted the Financial Industry Regulatory Authority (FINRA) for assistance in obtaining the documentation, and "it took almost a year for FINRA to convince [E*Trade] of [its] obligation." Appellant argues that due to difficulties in obtaining the documentation, he did not have the information necessary to file his returns. Additionally, appellant contends that he filed "an extension" for each tax year at issue,⁴ and that he is "making an effort to resolve this."

Appellant makes reasonable cause arguments for his failure to file timely refund claims. However, there is no reasonable cause exception or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, *supra*.) Moreover, appellant's difficulties in obtaining necessary tax documentation are not an exception to the claim for refund statute of limitations. (*Appeal of Jenkins* (81-SBE-069) 1981 WL 11797, *Appeal of Paul R. Brown* (84-SBE-018) 1984 WL 16098.) The language of the statute of limitations is explicit and must be

² Due to the COVID-19 state of emergency, FTB was authorized under R&TC section 18572 to postpone certain tax-related deadlines. Where an applicable statute of limitations to file a claim for refund expired between the period of March 12, 2020, to July 15, 2020, FTB considered a claim timely if filed on or before July 15, 2020. However, the postponement has no impact here since July 15, 2020, predates June 6, 2023. (See FTB Notice 2020-02, *Time Sensitive Acts Postponed Due to the COVID-19 State of Emergency* (March 30, 2020) www.ftb.ca.gov/tax-pros/law/ftb-notices/2020-02.pdf.)

³ FTB postponed the deadline for claiming 2016 refunds to May 17, 2021, due to the COVID-19 pandemic; however, the postponement has no impact here since May 17, 2021, predates June 6, 2023. (See R&TC, § 18572; FTB, *State Postpones Deadlines For Claiming 2016 Tax Refunds to May 17, 2021*, news release (April 26, 2021) www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-May-17-2021.html.)

⁴ OTA notes that while California law provides individual taxpayers an automatic six-month extension from the original statutory due date of April 15 to file a tax return, this extension is only allowed if a return is filed within the extension period; furthermore, this extension only pertains to the filing of a tax return, not a claim for refund. (R&TC, §§ 18567, 19306; Cal. Code Regs., tit. 18, § 18567.)

strictly construed. (*Appeal of Benemi Partners, L.P., supra.*) Accordingly, appellant's claims are untimely and may not be refunded.

HOLDING

Appellant's claims for refund for the tax years at issue are barred by the statute of limitations.

DISPOSITION

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

DocuSigned by:

Sheriene Anne Ridenour

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Sheriene Anne Ridenour
Administrative Law Judge

We concur:

Signed by:

Natasha Ralston

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Natasha Ralston
Administrative Law Judge

Signed by:

Kim Wilson

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Kim Wilson
Hearing Officer

Date Issued: 9/10/2025