

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Consolidated Appeals of:)	OTA Case Nos. 240716801, 240817072, &
H. OKEKE)	240817266
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OPINION

Representing the Parties:

For Appellant:	Oladapo Olagbemi, CPA
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For Respondent:	Caitlin S. Russo, Senior Legal Analyst
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T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, H. Okeke (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant's claims for refund of \$21,663.18 for the 2017 taxable year, \$17,941.59 for the 2018 taxable year, and \$19,760.41 for the 2019 taxable year.

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

Are appellant's claims for refund for 2017, 2018, and 2019 barred by the statute of limitations?

FACTUAL FINDINGS

2017 Taxable Year

1. Appellant filed his 2017 California Resident Franchise or Income Tax Return (tax return) late on July 15, 2024.
2. FTB accepted the return as filed and treated it as a claim for refund, which it denied due to the expiration of the statute of limitations.
3. FTB received appellant's income tax withholdings, which were credited on April 15, 2018, and received additional payments between January 20, 2021, and May 26, 2021.

2018 Taxable Year

4. Appellant filed his 2018 tax return late on July 15, 2024.
5. FTB accepted the return as filed and treated it as a claim for refund, which it denied due to the expiration of the statute of limitations.
6. FTB received appellant's income tax withholdings, which were credited on April 15, 2019, and received additional payments between May 15, 2021, and July 25, 2022.

2019 Taxable Year

7. Appellant filed his tax return late on May 5, 2024.
8. FTB accepted the return as filed and treated it as a claim for refund, which it denied due to the expiration of the statute of limitations.
9. FTB received appellant's income tax withholdings, which were credited on April 15, 2020, and received additional payments between July 25, 2022, and January 15, 2023.
10. Appellant filed timely appeals for all three taxable years. OTA consolidated the appeals.

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.*)

2017 Taxable Year

Appellant failed to file a 2017 return by October 15, 2018, the extended due date for the return. (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 2017 return, and thus expired on April 15, 2022, which is four years from the original due date of the return on April 15, 2018.

(R&TC, § 19306(a).) Appellant, however, filed his return for the 2017 taxable year on July 15, 2024, which is beyond the second four-year statute of limitations period prescribed in R&TC section 19306(a).

With regard to the one-year statute of limitations, appellant's income tax withholdings for 2017 are deemed paid on the original due date for the tax return, April 15, 2018. (R&TC, § 19002(c)(1).) Thus, to be within the one-year statute of limitations, appellant must have filed a claim for refund on or before April 15, 2019. Appellant made additional payments toward the 2017 liability from January 20, 2021, through May 26, 2021. Thus, to be within the one-year statute of limitations, appellant must have filed a claim for refund of those payments between January 20, 2022, and no later than May 26, 2022. However, appellant's claim for refund, filed on July 15, 2024, is well beyond the one-year statute of limitations prescribed in R&TC section 19306(a) for all payments at issue.

Appellant does not deny that his return was filed late. Rather, appellant claims that he traveled back and forth to Nigeria during the time period at issue to attend to and care for his sick parents. As noted above, reasonable cause and/or 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 for the 2017 taxable year.

2018 Taxable Year

Appellant failed to file a 2018 return by October 15, 2019, the extended due date for the return. (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 2018 return, and thus expired on April 15, 2023, which is four years from the original due date of the return on April 15, 2019. (R&TC, § 19306(a).) Appellant, however, filed his return for the 2018 taxable year on July 15, 2024, which is beyond the second four-year statute of limitations period prescribed in R&TC section 19306(a).

With regard to the one-year statute of limitations, appellant's income tax withholdings for 2018 are deemed paid on the original due date for the tax return, April 15, 2019. (R&TC, § 19002(c)(1).) Thus, to be within the one-year statute of limitations, appellant must have filed a claim for refund on or before April 15, 2020. Appellant made additional payments toward the 2018 liability from May 15, 2021, through July 25, 2022. Thus, to be within the one-year statute of limitations, appellant must have filed a claim for refund of those payments between

May 15, 2022, and no later than July 25, 2023.¹ However, appellant's claim for refund, filed on July 15, 2024, is well beyond the one-year statute of limitations prescribed in R&TC section 19306(a) for all payments at issue.

Appellant does not deny that his return was filed late. Rather, appellant claims that he sent tax documents to a tax preparer in San Antonio, Texas, and the tax documents were lost in a flood disaster. Appellant does not explain why he was unable to timely obtain new tax documents, although he was able to do so in 2024. In any event, appellant makes reasonable cause arguments, but as noted above, reasonable cause and/or 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 for the 2018 taxable year.

2019 Taxable Year

Appellant failed to file a 2019 return by October 15, 2020, the extended due date for the return. (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 due date of the return on April 15, 2020. (R&TC, § 19306(a).) Appellant, however, filed his return for the 2019 taxable year on May 15, 2024, which is beyond the second four-year statute of limitations period prescribed in R&TC section 19306(a).

With regard to the one-year statute of limitations, appellant's income tax withholdings for 2019 are deemed paid on the original due date for the tax return, April 15, 2020. (R&TC, § 19002(c)(1).) Thus, to be within the one-year statute of limitations, appellant must have filed a claim for refund on or before April 15, 2021. Appellant made additional payments toward the 2019 liability from July 25, 2022, through January 15, 2023. Thus, to be within the one-year statute of limitations, appellant must have filed a claim for refund of those payments between July 25, 2023, and no later than January 15, 2024. Appellant's claim for refund, filed on

¹ Due to the 2023 California winter storms, the IRS issued Notice CA-2023-01 and CA-2023-02 that granted affected taxpayers until May 15, 2023, to perform time-sensitive actions described in Treasury Regulation section 301.7508A-1(c)(1), which expressly includes filing a claim for credit or refund of any tax. (Treas. Reg. § 301.7508A-1(c)(1)(v).) This May 15, 2023 deadline was later extended to October 16, 2023, and subsequently to November 16, 2023. The postponement relates to certain deadlines falling on or after December 27, 2022, through November 16, 2023, and applies to "individuals and households affected by severe winter storms, flooding, and mudslides that reside or have a business" in certain California counties, including Alameda County, where appellant resides. However, appellant failed to file his claim for refund prior to the final postponed deadline of November 16, 2023.

May 15, 2024, is beyond the one-year statute of limitations prescribed in R&TC section 19306(a) for all payments at issue.

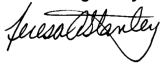
Appellant does not deny that his return was filed late. Rather, appellant claims that he lost his home to a fire in early 2023 and had to relocate and re-establish his family. Appellant also asserts that he lost all his valuables and had to “start life all over.” Once again, appellant makes reasonable cause arguments, but as noted above, reasonable cause and/or 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 for the 2019 taxable year.

HOLDING

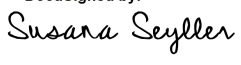
Appellant’s claims for refund for 2017, 2018, and 2019 are barred by the statute of limitations.

DISPOSITION

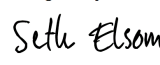
OTA sustains FTB’s actions denying appellant’s claims for refund.

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Teresa A. Stanley
Administrative Law Judge

We concur:

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Keith T. Long
Administrative Law Judge

For

Signed by:

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Seth Elsom
Hearing Officer

Date Issued: 7/2/2025