

3. After appellant failed to respond to the Request, FTB mailed to appellant a Notice of Proposed Assessment (NPA) dated June 26, 2017 based on the income information available to FTB. The NPA estimated appellant's taxable income and proposed to assess a tax and a late filing penalty, plus accrued interest. The NPA stated that unless appellant submitted a tax return or protest by August 25, 2017, the proposed assessment would become due and payable on that date. Appellant did not respond by the deadline and the proposed assessment became final.
4. FTB subsequently issued notices to appellant advising him of the balance due for the 2015 tax year. On December 31, 2017, appellant made a web payment that paid his balance in full.
5. FTB received appellant's 2015 tax return on September 15, 2024. FTB processed and accepted the return as filed. Since appellant reported a total tax liability of \$0, his 2015 account showed an overpayment of \$4,412.39. FTB treated the tax return as a claim for refund.
6. FTB subsequently issued a letter to appellant explaining that his tax return had been processed and, although his account shows an overpayment, FTB could not issue him a refund or credit of the overpayment because the statute of limitations had expired.
7. Appellant timely filed this appeal.

DISCUSSION

R&TC section 19306 sets forth the statute of limitations for filing a claim for refund. R&TC section 19306(a) provides, in part, that no credit or refund shall be allowed unless a claim for refund is filed within the later of: (1) four years from the date the tax return was filed, if the tax return was timely filed within the extended filing period pursuant to R&TC section 18567 or 18604 (whichever is applicable); (2) four years from the due date prescribed for filing the tax return (determined without regard to any extension of time for filing the return); or (3) one year from the date of the overpayment. The taxpayer has the burden of proof in showing entitlement to a refund and that the claim for refund is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

The language of R&TC section 19306 is explicit and must be strictly construed without exception. (*Appeal of Cornbleth*, 2019-OTA-408P.) A taxpayer's failure to file a claim for refund, for whatever reason, within the statutory period bars the taxpayer from doing so later, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even when it is later shown that the tax

was not owed in the first place. (*U.S. v. Dalm* (1990) 494 U.S. 596, 602; *Appeal of Benemi Partners, L.P.*, *supra*.) While fixed deadlines may appear harsh because they can be missed, the resulting occasional harshness is redeemed by the clarity imparted. (*Appeal of Benemi Partners, L.P.*, *supra*.)

Because appellant did not file a timely tax return, the applicable four-year statute of limitations in this appeal is four years from the last day prescribed for filing the tax return (without regard to any extension of time to file) or one year after the date of the overpayment. (R&TC, § 19306(a).) For the 2015 tax year, the four-year statute of limitations period expired on April 15, 2020 (four years from the filing due date of April 15, 2016). Appellant did not file a claim for refund (in the form of his 2015 tax return) until September 15, 2024. Appellant's claim for refund is therefore barred under the four-year statute of limitations period.

The one-year statute of limitations only applies to payments made within one year of the date when the claim for refund is filed. (R&TC, § 19306(a).) FTB received a payment from appellant for his 2015 account on December 31, 2017. As mentioned above, appellant filed his claim for refund on September 15, 2024, which is almost seven years after the payment was made. Accordingly, the claim for refund is also barred under the one-year statute of limitations.

Appellant does not argue that he filed a claim for refund within the four-year or one-year statute of limitations set forth in R&TC section 19306(a) (within four years from the April 15, 2016 filing due date or within one year from his December 31, 2017 payment). Rather, appellant's argument is equitable in nature. Appellant states on appeal that he "presented detailed facts and circumstances that support the conclusion that [he] acted in good faith," that he had reasonable cause for not timely filing his return, and that he should therefore receive a refund of the overpayment. However, other than appellant's statement in his opening brief of this appeal, appellant did not supply any such information to OTA. According to FTB's opening brief, FTB did not receive such information either. Regardless of whether appellant could have established good faith or that he had reasonable cause when he filed a claim for refund after the statute of limitations expired if he had provided more information, OTA can only grant relief where the law specifically allows. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) As explained above, the language of the statute of limitations must be strictly construed, and the law does not provide a reasonable or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, *supra*.) This is true even when it is later shown that the tax was not owed in the first place. (*U.S. v. Dalm*, *supra*.)

HOLDING

The statute of limitations bars appellant's claim for refund for the 2015 tax year.

DISPOSITION

FTB's action is sustained.

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Amanda Vassigh
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Amanda Vassigh
Administrative Law Judge

Date Issued: 9/16/2025