

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
D. HUGHES) OTA Case No. 241118004
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OPINION

Representing the Parties:

For Appellant: D. Hughes
For Respondent: AnaMarija Antic-Jezildzic, Specialist

S. BROWN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, D. Hughes (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$2,002.54 for the 2017 tax 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. (Cal. Code Regs., tit. 18, § 30209.05(b).)

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 claim for refund is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant did not timely file an income tax return for the 2017 tax year.
2. Through its Integrated Non-Filer Compliance program, FTB obtained information indicating that appellant received income sufficient to prompt a filing requirement for the 2017 tax year.
3. On October 28, 2019, FTB issued appellant a Request for Tax Return (Request), requiring appellant to respond by November 27, 2019. Appellant did not respond to the Request.

4. On March 3, 2020, FTB issued appellant a Notice of Proposed Assessment (NPA), which estimated appellant's taxable income based on wages reported by his employer, in addition to miscellaneous income. The NPA proposed tax of \$2,940, a late filing penalty of \$735, and applicable interest.
5. Appellant did not timely protest the NPA, and the NPA became final. On August 3, 2020, FTB issued an appellant State Income Tax Balance Due Notice.
6. FTB initiated collection action. On January 15, 2021, FTB transferred \$541.54 from appellant's 2019 tax year account to his 2017 tax year account.
7. On February 14, 2024, FTB issued appellant a Final Notice Before Levy and Lien and imposed a collection fee of \$332.
8. On May 10, 2024, FTB received appellant's 2017 California Resident Income Tax Return (return). As a result, appellant's total tax liability was reduced, and FTB abated the late-filing penalty.
9. FTB treated appellant's return as a claim for refund of \$2,002.54. On May 30, 2024, FTB denied the refund claim on the basis that appellant had not timely filed the claim within the statute of limitations.

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. The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P; see Cal. Code Regs., tit. 18, § 30219(a).) The burden of proof is by a preponderance of the evidence. (Cal. Code Regs., tit. 18, § 30219(b).)

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Combleth*, 2019-OTA-408P.) Absent an exception, a taxpayer's untimely filing of a claim for any reason bars a refund. (*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. (*Ibid.*; see *U.S. v. Dalm* (1990) 494 U.S. 596, 602.)

FTB treated the return, which was untimely filed on May 10, 2024, as a claim for refund. Since the return was untimely, the applicable four-year statute of limitations period for the refund claim runs from the original due date of the return, April 15, 2018, and expired on April 15, 2022, four years later. (See R&TC, § 18566.) Consequently, the applicable four-year statute of limitations period expired more than two years before appellant's claim was filed.

The one-year statute of limitations period runs one year from the date of the claim for refund. FTB applied the \$541.54 credit to appellant's 2017 tax year account on January 15, 2021, and thus the one-year statute of limitations expired on January 15, 2022. Because appellant filed the refund claim on May 10, 2024, the claim is not within the one-year statute of limitations.

On appeal, appellant argues that FTB's denial of his claim for refund "misinterprets the applicable tax laws and regulations." Furthermore, appellant contends that he was a victim of identity theft, which caused erroneous information to be transmitted to FTB and caused missed deadlines that were not his fault. In addition, appellant asserts that his refund should be granted due to undue hardship, fairness, and equity.

Regarding appellant's argument that FTB misapplied the law, appellant does not identify which tax law or regulation he believes FTB incorrectly applied. Moreover, OTA finds no legal error.

Regarding appellant's remaining contentions, appellant raises reasonable cause arguments. However, as noted above, there is generally no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P., supra.*) A taxpayer's failure, for whatever reason, to file a claim for refund or credit within the statutory period prevents the taxpayer from doing so at a later date. (*Appeal of Khan, 2020-OTA-126P.*) In any event, appellant does not provide any evidence or further information establishing what erroneous information was transmitted to FTB or how identity theft caused him to miss the deadline for filing a timely claim for refund. In addition, OTA notes that FTB states it has no record of appellant's account being assigned to FTB's identity theft department. Moreover, the return that appellant filed in May 2024 reflects the same income information that FTB relied upon in issuing the NPA. Accordingly, there is no evidence establishing how identity theft could be a basis for granting the claim for refund.

As there is no basis to suspend the statute of limitations, appellant's claim for refund is time barred.

HOLDING

The statute of limitations bars appellant's claim for refund for the 2017 tax year.

DISPOSITION

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

Signed by:

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Suzanne B. Brown
Administrative Law Judge

Date Issued: 10/23/2025