

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:) OTA Case No. 240115209
D. BOBECK AND)
K. BOBECK)
_____)

OPINION

Representing the Parties:

For Appellants: D. Bobeck
K. Bobeck

For Respondent: Ariana Macedo, Attorney

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, D. Bobeck and K. Bobeck (appellants) appeal actions by respondent Franchise Tax Board (FTB) denying appellants' claims for refund of \$309, \$2,317, and \$2,709 for the 2016, 2017, and 2018 taxable years, respectively.

Appellants 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

Does the statute of limitations bar appellants' claims for refund for the 2016, 2017, or 2018 taxable years?

FACTUAL FINDINGS

1. On February 13, 2017, appellants timely filed their joint California Nonresident or Part-Year Resident Income Tax Return (Form 540NR) for the 2016 taxable year. Appellants reported withholdings of \$3,331. On their 2016 return, appellants claimed a refund of \$1,743.
2. On March 27, 2018, appellants timely filed their joint California Resident Income Tax Return (Form 540) for the 2017 taxable year. Appellants reported withholdings of \$3,331. On their 2017 return, appellants claimed a refund of \$197.

3. On April 2, 2019, appellants timely filed their joint Form 540 for the 2018 taxable year. Appellants reported withholdings of \$9,646. On their 2018 return, appellants claimed a refund of \$278.
4. For taxable year 2016, FTB refunded to appellants \$1,743 as requested on their original tax return.
5. On August 3, 2023, appellants filed Form 540X, Amended Individual Income Tax Return, for the 2016 taxable year claiming a \$309 refund and an amended Form 540NR for the 2016 taxable year claiming a refund of \$2,052.¹
6. For taxable years 2017 and 2018, FTB refunded to appellants \$197 and \$278, respectively, as requested on their original tax returns.
7. On August 7, 2023, appellants filed amended Forms 540 for the 2017 and 2018 taxable years claiming refunds of \$2,514² and \$2,987,³ respectively.
8. On August 30, 2023, FTB denied appellants' claims for refund of \$309, \$2,317, and \$2,709 for the 2016, 2017, and 2018 taxable years, respectively.
9. Appellants also filed amended federal returns for the 2016, 2017, and 2018 taxable years with the IRS. The IRS denied appellants' claims for refund on November 4, 2024.
10. Appellants timely filed this appeal.
11. On appeal, appellants produce a copy of a Combat-Related Special Compensation (CRSC) approval letter sent to appellant-husband from the Defense Finance and Accounting Service (DFAS) dated December 16, 2022, which states that DFAS approved appellant-husband's application for CRSC.

DISCUSSION

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. (R&TC, § 19306(a).) If a change or correction is made or allowed by the IRS, a claim for refund or credit

¹ FTB accepted the amended Form 540NR but corrected the claimed refund amount from \$2,052 to \$309 because it previously issued appellants a refund of \$1,743.

² FTB accepted the 2017 amended Form 540 but corrected the claimed refund amount from \$2,514 to \$2,317 because it previously issued appellants a refund of \$197.

³ FTB accepted the 2018 amended Form 540 but corrected the claimed refund amount from \$2,987 to \$2,709 because it previously issued appellants a refund of \$278.

resulting from the adjustment may be filed by the taxpayer within two years from the date of the final federal determination or within the period provided in R&TC sections 19306, 19307, 19308, or 19316, whichever period expires later. (R&TC, § 19311(a).) The date of each final federal determination shall be the date on which each adjustment or resolution resulting from an IRS examination is assessed pursuant to Internal Revenue Code section 6203. (R&TC, § 18622(d).) Taxpayers have the burden of proving entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) The language of the statute of limitations is explicit and must be strictly construed. (*Ibid.*) A taxpayer's untimely filing of a claim for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Here, appellants do not dispute that they failed to file their claims for refund for the 2016, 2017, and 2018 taxable years within the general four-year statute of limitations period or the one-year statute of limitations period set forth in R&TC section 19306(a). Instead, appellants argue that pursuant to R&TC section 19311(a), they timely filed their 2016, 2017, and 2018 claims for refund within two years from the date of a final federal determination, which is defined in R&TC section 18622(d). Appellants assert that on December 16, 2022, appellant-husband was awarded CRSC, retroactive to 2016, which entitles him to receive nontaxable disability severance payments that offset his military retirement pay. Appellants rely on the Combat-Injured Veterans Tax Fairness Act of 2016 (Public Law 114-292), which allows veterans who retired from the Armed Forces for medical reasons additional time to file a federal claim for credit or refund if federal taxes were improperly withheld from their non-taxable disability severance payments. Appellants assert that for the purposes of R&TC section 18622, the date of the final federal determination is December 16, 2022; i.e., the date of the CRSC Approval Letter issued to appellant-husband from the DFAS. Appellants state that they "filed the amended returns well within one year of the federal government's final determination."

However, appellants have the burden to establish that the IRS adjusted their federal accounts for the taxable years at issue. According to appellants' federal account transcripts, the IRS processed appellants' amended federal tax returns for the 2016, 2017, and 2018 taxable years on August 3rd and 4th, 2023, but did not make any adjustment to their 2016, 2017, or 2018 federal accounts. Appellants have not provided any other evidence showing that the IRS adjusted their federal accounts for the 2016, 2017, and 2018 taxable years.

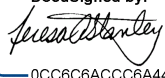
Therefore, the statute of limitations bars appellants' claims for refund for the 2016, 2017, and 2018 taxable years.

HOLDING


The statute of limitations bars appellants' claims for refund for the 2016, 2017, and 2018 taxable years.


DISPOSITION

OTA sustains FTB's actions in full.

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Teresa A. Stanley
Administrative Law Judge

We concur:

DocuSigned by:

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Erica Parker
Hearing Officer

DocuSigned by:

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Josh Aldrich
Administrative Law Judge

Date Issued: 11/26/2025