

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
J. BERGLUND) OTA Case No. 241117951
)
)
)
)
)

OPINION

Representing the Parties:

For Appellant: J. Berglund
For Respondent: David C. Cortez, Associate Government
Program Analyst

A. VASSIGH, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Berglund (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant’s claims for refund of \$2,363.77 for the 2017 tax year and of \$1,457.42 for the 2018 tax 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

Whether the statute of limitations bars appellant’s claims for refund for the 2017 and 2018 tax years.

FACTUAL FINDINGS

2017 Tax Year

1. FTB received information indicating that appellant had received income from various sources in 2017 yet had not filed a California tax return.
2. FTB sent appellant a Demand for Tax Return. When appellant did not respond, FTB issued a Notice of Proposed Assessment (NPA) on September 30, 2019.
3. Appellant did not protest the NPA, and therefore the assessment became final.

4. On December 30, 2019, FTB issued a State Income Tax Balance Due Notice with a balance of \$6,218.65.
5. Through its collection action, FTB received a total amount of \$5,234.57 from July 17, 2023, to August 12, 2024. This amount was comprised of three payments made on July 17, 2023, July 1, 2024, and August 12, 2024, of \$2,574.78, \$2,179.38, and \$480.41.
6. Appellant filed his 2017 California tax return on August 26, 2024, reporting a total amount due of \$50. FTB accepted and processed appellant's return as filed, and treated it as a claim for refund. After accounting for tax of \$102, a revised delinquent penalty of \$51, a demand penalty of \$25.50, a lien fee of \$20, an installment agreement fee of \$34, a credit transfer of \$20 to the 2020 tax year, a credit transfer of \$2,649.69 to the 2018 tax year, and interest; appellant's 2017 tax year account reflected an overpayment of \$2,363.77.
7. On September 18, 2024, FTB issued its Statute of Limitations notice denying the claim for refund of \$2,363.77.

2018 Tax Year

8. FTB received information indicating that appellant had received income from various sources in 2018 yet had not filed a California tax return.
9. FTB sent appellant a Demand for Tax Return. When appellant did not respond, FTB issued a Notice of Proposed Assessment (NPA) on August 27, 2021.
10. Appellant did not protest the NPA, and therefore the assessment became final.
11. On November 22, 2021, FTB issued a State Income Tax Balance Due Notice with a balance of \$6,478.63.
12. Through its collection action and applying a credit from the 2017 tax year account, FTB received a total amount of \$4,075.11 from November 15, 2021, to September 28, 2022. This amount was comprised of four payments made on November 15, 2021, December 15, 2021, January 18, 2022, and September 28, 2022, of \$469, \$469, \$469, \$18.42, and a credit applied from the 2017 tax year on September 12, 2024, of \$2,649.69.
13. Appellant filed his 2018 California tax return on August 26, 2024, reporting a total amount due of \$0. FTB accepted and processed appellant's return as filed, and treated it as a claim for refund. After accounting for an installment agreement fee of \$34 and

intercepted funds of \$2,649.69 by another state agency, appellant's account reflected an overpayment of \$1,457.42.

14. On September 30, 2024, FTB issued its Statute of Limitations notice denying the claim for refund of \$1,457.42.
15. 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 tax year 2017, the four-year statute of limitations period expired on April 15, 2022 (four years from the filing due date of April 15, 2018). Appellant did not file a claim for refund (in the form of his 2017 tax return) until August 26, 2024. For tax year 2018, the four-year statute of limitations period expired on April 15, 2023 (four years from the filing due date of April 15, 2019). Appellant did not file a claim for refund (in the form of his 2018 tax

return) until August 26, 2024. Appellant's claims for refund for tax years 2017 and 2018 are 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).) As stated above, appellant filed his 2017 and 2018 tax returns on August 26, 2024. Therefore, in regard to tax year 2017, the payments FTB received on July 1, 2024, and on August 12, 2024, were eligible for refund or credit. FTB applied these amounts to balances on appellant's 2018 and 2020 tax year accounts. Appellant's payment that was received on July 17, 2023 of \$2,574.78 was not within one year of appellant's claim for refund. This portion of appellant's claim for refund is barred under the one-year statute of limitations. In regard to tax year 2018, the payments FTB received from November 15, 2021 to September 28, 2022 were not made within one year of appellant's claim for refund and are therefore not eligible for refund or credit.¹

Appellant's arguments are equitable in nature. Appellant explains that he was prevented from filing his tax returns in a timely manner due to his work schedule and his son's medical condition. OTA sympathizes with these hardships; however, there is no reasonable cause or equitable basis to suspend the statute of limitations. (See *Appeal of Benemi Partners, L.P.*, *supra.*)

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.*) Since appellant's claims for refund are barred by the statute of limitations and appellant has not provided any legal basis for relief, OTA cannot allow the claim for refund.

¹ Part of the payments made for the 2018 tax year were intercepted by another state agency.

HOLDING

The statute of limitations bars appellant’s claims for refund for the 2017 and the 2018 tax years.

DISPOSITION

FTB’s actions are sustained.

DocuSigned by:
Amanda Vassigh
7B17E958B7C14AC...
Amanda Vassigh
Administrative Law Judge

We concur:

Signed by:
Natasha Ralston
25F8FE08FF56478...
Natasha Ralston
Administrative Law Judge

DocuSigned by:
Erica Parker
6651E0AAC34B4FC...
Erica Parker
Hearing Officer

Date Issued: 2/24/2026