2026-OTA-261
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:

C. RAIMONDI

OTA Case No. 250622381

OPINION

Representing the Parties:

For Appellant: C. Raimondi

For Respondent: Caitlin S. Russo, Senior Legal Analyst

For Office of Tax Appeals: Mai Tran, Attorney

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Raimondi (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of $13,642.54 for the 2017 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

Is appellant's claim for refund barred by the statute of limitations?

FACTUAL FINDINGS

1. Appellant did not file a timely 2017 California income tax return.
2. FTB's records indicated that appellant may have a filing requirement after receiving information indicating that appellant had sufficient income to require the filing of a 2017 return. A Demand for Tax Return (Demand) was sent to appellant's at an address in London (London address) reported to the IRS. Appellant did not respond to the Demand.
3. FTB issued a Notice of Proposed Assessment (NPA) to appellant at the London address. The NPA estimated appellant's income based on third-party reporting and

proposed tax of $7,698, plus penalties, fees, and applicable interest. Appellant did not respond to the NPA, and the proposed assessment became a final tax liability.

4. FTB issued the following notices to appellant at the London address: a State Income Tax Balance Due Notice on November 1, 2021, and an Income Tax Due Notice on December 27, 2021. Both notices informed appellant that collection action may begin if the full tax liability was not paid within 30 days of the notice dates.
5. FTB then issued a Final Notice Before Levy and Lien to appellant on May 2, 2022, at the London address. The Final Notice Before Levy and Lien informed appellant that if she did not pay the tax liability, FTB could take collection action and may impose a collection fee.
6. FTB subsequently received return mail addressed to appellant at the London address. FTB updated appellant's mailing address to an address in New York (New York address). FTB issued a Collection Status Notice to appellant on June 20, 2022, at the New York address.
7. FTB issued an Electronic Order to Withhold Personal Income Tax (EWOT) to appellant's bank on August 9, 2022. The EWOT requested the bank to withhold $13,936.28 from appellant's bank account.
8. According to FTB's records, appellant called FTB on August 17, 2022, regarding the bank levy. According to FTB, during that call appellant confirmed her current address was the New York address.
9. FTB collected a levy payment of $13,936.28 on August 29, 2022. The payment satisfied appellant's tax liability.
10. FTB imposed a collection cost recovery fee of $316.[1]
11. Appellant filed an untimely 2017 California nonresident income tax return (Form NR) on April 15, 2025. Appellant reported California taxable income of $0, total tax of $0, and withholding payments of $0.

[1] R&TC section 19254 requires FTB to impose a fee on the taxpayer for the actual cost of collecting a tax when the taxpayer fails to pay tax due and FTB has mailed a notice for payment that advises that the continued failure to pay may result in collection action. Once the fee is properly imposed, there is no language in the statute that allows for the abatement of the fee under any circumstances, including reasonable cause. (See *Appeal of Myers* (2001-SBE-001) 2001 WL 37126924.)

12. FTB processed the return and treated it as a claim for refund of $13,642.54.[2] FTB notified appellant that the refund was denied due to the expiration of the statute of limitations.
13. Appellant then filed this timely appeal.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed unless a claim for refund is filed within the later of the following dates: (1) four years from the date the return is filed, if the return was timely filed pursuant to an extension of time to file; (2) four years from the due date of the return, determined without regard to any extension of time to file; or (3) one year from the date of overpayment. California personal income tax returns filed on a calendar year basis are originally due (without regard to any extension of time to file) on or before April 15th following the close of the calendar year. (R&TC, § 18566.) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The applicable four-year limitation period for the 2017 taxable year expired on April 15, 2022, which was four years from the original due date of the return (April 15, 2018). (R&TC, §§ 19306(a), 18566.) In addition, the one-year limitation period to file a timely claim for refund of the August 29, 2022 payment expired on August 29, 2023, one year after FTB received the payment from appellant's bank. (R&TC, § 19306(a).)

Appellant does not dispute that her return filed on April 15, 2025, is untimely. However, appellant argues that she is entitled to the refund because she did not receive the notice prior to the involuntary levy of her bank account, and she did not have the opportunity to respond or dispute the notice. Appellant states that during this time she was working abroad and relocated multiple times, which may have caused her to miss the notices.

However, it is well established that notices sent by FTB to a taxpayer's last known address are sufficient, even if the taxpayer does not receive them. (R&TC, § 18416(b); see also *Appeal of Goodwin* (97-SBE-003) 1997 WL 258474.) R&TC section 18416(c) provides that the last known address is the address that appears on the taxpayer's last return filed with FTB, unless the taxpayer has provided to FTB clear and concise written or electronic notification of a different address, or FTB has an address it has reason to believe is the most current address for the taxpayer. FTB issued the notices to appellant's last known address which was the London

[2] Although FTB received a levy payment of $13,936.28, the amount of the claim for refund was adjusted for the collection cost recovery fee of $316 and a credit write-off of $22.26.

address reported to FTB by the IRS[3] on November 9, 2018. When FTB received return mail from the London address, FTB mailed the subsequent Collection Status Notice to appellant at the New York address reported by the U.S. Postal Service, which FTB had reason to believe was appellant's most current address. Therefore, FTB's notices were sufficient.[4]

The language of the statute of limitations is strictly construed, and there is no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P.*, *supra*.) Other than a narrow exception not relevant here,[5] a taxpayer's failure to file a claim for refund within the statutory period bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid*.) The occasionally harsh results from fixed deadlines are redeemed by the administrative clarity imparted. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) 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 Estate of Gillespie*, 2018-OTA-052P.) Accordingly, OTA finds that appellant's claim for refund is barred by the statute of limitations.

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[3] The IRS discloses taxpayer addresses to states pursuant to a taxpayer address request . (See Internal Revenue Manual, 11.3.32.)

[4] Shortly after FTB issued the bank levy on August 9, 2022, appellant contacted FTB on August 17, 2022, to discuss the bank levy. It appears that appellant had actual notice of the levy prior to FTB's receipt of the funds on August 29, 2022.

[5] R&TC section 19316 provides a narrow exception for suspending the statute of limitations when a taxpayer is deemed "financially disabled." A financially disabled taxpayer is unable to manage personal financial affairs by reason of a medically determinable physical or mental impairment that is either deemed to be terminal impairment or expected to last for a continuous period not less than 12 months. (R&TC, § 19316(b)(1).)

HOLDING

Appellant's claim for refund is barred by the statute of limitations.

DISPOSITION

OTA sustains FTB's action denying appellant's claim for refund.

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Teresa A. Stanley
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Teresa A. Stanley
Administrative Law Judge

We concur:

Signed by:
Natasha Ralston
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Natasha Ralston
Administrative Law Judge

Signed by:
Seth Elsom
C04CD432E3254ED...

Seth Elsom
Hearing Officer

Date Issued: 3/25/2026