

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 250522239
S. SMITH	)	
	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellant:	S. Smith
For Respondent:	Leoangelo C. Cristobal, Attorney
For Office of Tax Appeals:	John Yusin, Attorney

K. SHELTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, S. Smith (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of \$4,486.15 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 appellant's claim for refund is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant did not file a timely 2018 Form 540 California Resident Income Tax Return (Return), and therefore, respondent issued a Demand for Tax Return on July 27, 2020. When appellant did not file a Return, respondent issued appellant a Notice of Proposed Assessment on November 13, 2020, that was based on an estimate of appellant's income.
2. Appellant made multiple payments of tax, penalties, and interest due for the 2018 tax year totaling \$5,719.09 between May 10, 2021, and October 29, 2021.

3. Appellant filed a Return for the 2018 tax year on March 15, 2025. The Return reflected total tax of \$3,283 and tax withholdings of \$3,246.
4. Respondent processed the Return and treated the Return as a refund claim in the amount of \$4,486.15.¹ Respondent denied the refund claim on the basis that appellant filed the refund claim after the statute of limitations had expired.
5. This timely appeal followed.

DISCUSSION

The law generally requires that a taxpayer file a refund claim by the later of:

(1) four years from the date the return is filed if filed within an extension of time to file the return; (2) four years from the due date of the return without regard to any extensions; or (3) one year from the date of overpayment. (R&TC, § 19306(a).) For purposes of the one-year statute of limitations, amounts withheld are deemed paid on the original return due date. (R&TC, § 19002(c)(1).) The taxpayer has the burden of proof to show entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) If the refund claim is untimely, the refund is barred. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellant filed the Return (and, therefore, the refund claim) after the extended due date of October 15, 2019, and therefore, the first four-year statute of limitations period does not apply. (Cal. Code Regs., tit. 18, § 18567(a).) The second four-year limitations period ran from the original due date for the return of April 15, 2019, and expired on April 15, 2023. (R&TC, §§ 18566, 19306(a).) Appellant filed the Return on March 15, 2025, which was after the second four-year period expired. (R&TC, § 19306(a).)

Withholding payments made during the 2018 tax year are deemed paid on the original due date of the Return, which was April 15, 2019. (R&TC, § 19002(c)(1).) The one-year period for claiming a refund of the withholding payments expired on April 15, 2020. As for appellant's payments between May 10, 2021, and October 29, 2021, appellant filed the Return on March 15, 2025, which was more than one year after the date of the last payment; therefore, the claim is not timely as to those payments.

Appellant argues on appeal that restrictions due to the COVID-19 pandemic delayed filing of the refund claim,² and that respondent did not properly advise appellant as to the timing

¹ Appellant made payments totaling \$5,719.09, plus withholdings of \$3,246, reduced by total tax of \$3,283, interest of \$22.19, penalties of \$857.75, and a collection cost recovery fee of \$316.

² Respondent postponed the Return filing deadlines for the 2019 and 2020 tax years due to the COVID-19 pandemic; however, respondent did not postpone the filing deadline for the 2018 tax year.

of a valid refund claim. Appellant's arguments are in the nature of reasonable cause for the late filing of the claim. However, reasonable cause does not suspend the period of limitations.³ (*Appeal of Benemi Partners, L.P., supra.*) Further, respondent is under no obligation to advise appellant as to the availability of overpayments and/or the applicable limitations period for filing a claim for refund. (*Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856.)

Appellant argues that she was told to do many different things and to wait periods of time, which appears to be in the nature of a claim for equitable estoppel. Equitable estoppel is applied against the government only in rare and unusual circumstances and when its application is necessary to prevent manifest injustice. (*Appeal of Sedillo*, 2018-OTA-101P.) The four elements of equitable estoppel are: (1) the government agency (respondent) must be shown to have been aware of the actual facts; (2) the government agency (respondent) must be shown to have made an incorrect or inaccurate representation to the relying party (appellant) and intended that its incorrect or inaccurate representation would be acted upon by the relying party or have acted in such a way that the relying party had a right to believe that the representation was so intended; (3) the relying party (appellant) must be shown to have been ignorant of the actual facts; and (4) the relying party (appellant) must be shown to have detrimentally relied upon the representations or conduct of the government agency (respondent). (*Ibid.*) The party asserting estoppel bears the burden of proof and, thus, appellant must establish each of these four elements. (*Ibid.*)

Appellant has not provided any details regarding which employee at respondent's office advised her to do different things and specifically what the advice was, the employee's knowledge of the facts of her case, or when the statements were made. Appellant has, therefore, not provided sufficient information to establish an equitable estoppel claim.

The statute of limitations for filing a refund claim must be strictly construed, meaning that a taxpayer's untimely filing of a refund claim for any reason bars a refund. (*Appeal of Benemi Partners, L.P., supra.*) This remains true even if the tax was not owed or was erroneously, illegally, or wrongfully collected. (*Ibid.*) Therefore, appellant is not entitled to the claimed refund.

³ R&TC section 19316 may suspend the running of the statute of limitations during any period where the taxpayer is financially disabled and unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months. Appellant has not asserted or offered any basis for determining that she was financially disabled under section 19316.

HOLDING

Appellant's refund claim for the 2018 tax year is barred by the statute of limitations.

DISPOSITION

Respondent's action is sustained.

Signed by:

L. Katrine Shelton

L. Katrine Shelton

Administrative Law Judge

We concur:

DocuSigned by:

Teresa A. Stanley

Teresa A. Stanley

Administrative Law Judge

Signed by:

Natasha Ralston

Natasha Ralston

Administrative Law Judge

Date Issued: 6/30/2026