

In the Matter of the Appeal of: ) OTA Case No. 241218368  
S. KHACHATRYAN )  
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<sup>1</sup> FTB's Integrated Non-Filer Compliance program obtains information from various sources to identify individuals who may have income but did not file a California income tax return. For the 2015, 2016, and 2017 tax years, FTB obtained information that appellant held a professional license, a business license, or a sales permit, or that employees worked for appellant.

- returns, provide evidence that tax returns had already been filed, or explain why tax returns did not need to be filed.
2. FTB did not receive responses to its Requests or Demand and issued proposed assessments to appellant for the 2015, 2016, and 2017 tax years.<sup>2</sup> The Notice of Proposed Assessment (NPA) for the 2015 tax year, issued on July 17, 2017, proposed tax, a late-filing penalty, and interest. The NPA for the 2016 tax year, issued on May 14, 2018, proposed tax, a late-filing penalty, a demand penalty, a filing enforcement fee, and interest. The NPA for the 2017 tax year, issued on July 29, 2019, proposed tax, a late-filing penalty, and interest.
  3. Appellant did not protest the NPAs for the 2015, 2016, and 2017 tax years, and the NPAs became final, due, and payable.<sup>3</sup>
  4. Appellant spoke with FTB multiple times in April 2023. The parties discussed the notices FTB issued, the information FTB used to estimate appellant's income, and the fact that California income tax returns for the 2015, 2016, and 2017 tax years were not filed. Appellant told FTB that California income tax returns for 2015, 2016, and 2017 would be filed, and FTB placed a hold on its collection action until June 4, 2023.
  5. Appellant did not file California income tax returns for the 2015, 2016, or 2017 tax years on or before June 4, 2023, and FTB pursued collection action for the balances owed for those tax years. For the 2015 tax year, FTB received one payment of \$5,972.58 on September 15, 2023. For the 2016 tax year, FTB obtained one payment of \$6,456.83 on September 15, 2023. For the 2017 tax year, FTB obtained payments on August 13, 2021, September 8, 2023, and September 15, 2023, totaling \$4,331.52.<sup>4</sup>
  6. On November 12, 2024, FTB received appellant's California Resident Income Tax Returns for the 2015, 2016, and 2017 tax years. These tax returns reported zero California total tax.
  7. FTB treated the 2015, 2016, and 2017 California income tax returns as claims for refund.

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<sup>2</sup> If an individual fails to file a California income tax return, FTB may estimate the individual's net income from any available information, and propose to assess tax, penalties, and interest. (R&TC, § 19087(a).)

<sup>3</sup> An individual has 60 days to file a protest of a proposed deficiency assessment. (R&TC, § 19041.) If no protest is filed within the 60-day period, the proposed deficiency assessment becomes final. (R&TC, § 19042.) Final assessments are perfected and enforceable state tax liens. (R&TC, § 19221.)

<sup>4</sup> On September 15, 2023, FTB obtained one payment of \$28,629.45 from a state tax lien on real property, which FTB allocated (in part) to the 2015, 2016, and 2017 tax years.

For the 2015 tax year, FTB recognized a total overpayment of \$5,665.58; for the 2016 tax year, a total overpayment of \$6,436.83; and for the 2017 tax year, a total overpayment of \$4,331.52.

8. FTB issued notices denying the claims for refund for the 2015, 2016, and 2017 tax years on the grounds that they were filed after the statute of limitations period had expired.
9. Appellant timely filed this appeal with OTA.

#### DISCUSSION

California law generally requires that taxpayers file their refund claims by the later of: (1) four years from the date the return is filed, if filed within the extended due date; (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).) California state income tax returns for individual taxpayers are originally due on April 15th following the close of the calendar year. (R&TC, § 18566.)

The untimely filing of a claim for any reason bars a refund unless there is an exception provided by law. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) OTA does not have authority to disregard the statute of limitations and order an untimely refund claim be granted based on reasonable cause or other equitable grounds, such as to avoid unfair or harsh results. (*Ibid.*)

Appellant filed California income tax returns for the 2015, 2016, and 2017 tax years on November 12, 2024. FTB treated these tax returns as claims for refund. Because appellant did not file these returns within the extended due date, the first four year statute of limitations does not apply. The original due dates for these tax returns were April 15, 2016, April 15, 2017, and April 15, 2018, respectively. Therefore, the claims for refund for the 2015, 2016, and 2017 tax years were not filed within four years of their respective original due dates.

FTB collected a \$5,972.58 payment for the 2015 tax year and a \$6,456.83 payment for the 2016 tax year on September 15, 2023. For the 2017 tax year, FTB collected payments on August 13, 2021, September 8, 2023, and September 15, 2023, totaling \$4,331.52. The claims for refund for these tax years were filed on November 12, 2024. Therefore, the refund claims for the 2015, 2016, and 2017 tax years were not filed within one year of their respective payments.

Appellant's claims for refund for the 2015, 2016, and 2017 tax years are therefore barred by the statute of limitations, unless appellant can point to an exception provided by law.<sup>5</sup>

Appellant contends there is a mistake or misunderstanding in this matter. Appellant asserts he did not have a job or income in 2015, 2016, or 2017, and he was under the impression that he did not need to file tax returns. When FTB began its collection action, appellant states that he had consulted with a CPA who then filed tax returns for tax years unrelated to those on appeal. Appellant states that tax returns for the 2015, 2016, and 2017 tax years were overlooked during this process, and once discovered, the CPA filed tax returns for those years as well.

The theme of appellant's narrative is one of reasonable cause—understood to mean acting as an ordinarily intelligent and prudent businessperson would act under similar circumstances. (See *Appeal of Triple Crown Baseball*, 2019-OTA-025P.) There is no reasonable cause exception to the imposition of the statute of limitations. 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.*, *supra*.) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) While fixed deadlines may appear harsh because they can be missed, the resulting occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Appellant has not shown an exception provided by law applies to the untimely refund claims. Appellant's claims for refund for the 2015, 2016, and 2017 tax years are barred by the statute of limitations.

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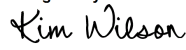
<sup>5</sup> Financial disability due to a medically determinable physical or mental impairment is an example of a statutory exception that may suspend the general statute of limitations period for refund claims. (R&TC, § 19316.) Appellant has not argued this exception applies, and there are no facts which suggest it should apply.

HOLDING

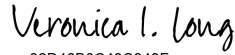
Appellant's claims for refund for the 2015, 2016, and 2017 tax years are barred by the statute of limitations.

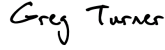
DISPOSITION

FTB's actions are sustained.

Signed by:  
  
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Kim Wilson  
Hearing Officer

We concur:

Signed by:  
  
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Veronica I. Long  
Administrative Law Judge

Signed by:  
  
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Greg Turner  
Administrative Law Judge

Date Issued: 7/23/2026