

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
TOLBERT D. SPRADLIN)

For Appellant: Tolbert D. Spradlin, in pro. per.
For Respondent: Bruce W. Walker
Chief Counsel
David M. Hinman
Counsel

O P I N I O N

This appeal is made pursuant to section 19059, of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claim of Tolbert D. Spradlin for refund of personal income tax in the amount of \$68.63 for the year 1967.

The question presented is whether appellant's refund claim was barred by the statute of limitations.

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Appellant failed to file a California personal income tax return for 1967. As a result of that omission, respondent issued a provisional assessment of tax, penalty, and interest on November 26, 1969. On April 15, 1972, appellant paid the total amount due, but then filed a claim for refund of that amount on July 20, 1973. Respondent denied the refund claim on the ground that it had not been timely filed.

The general statute of limitations for refund claims is set forth in Revenue and Taxation Code section 19053, which provides in pertinent part:

No credit or refund shall be allowed or made after four years from the last day prescribed for filing the return or after one year from the date of the overpayment, whichever period expires the later, unless before the expiration of the period a claim **therefor** is filed by the taxpayer,...

The last day prescribed for filing a return for the calendar year 1967 was April 15, 1968. (Rev. & Tax. Code, § 18432.) Four years from that date expired on April 15, 1972. The alleged overpayment occurred on April 15, 1972. One year from that date is April 15, 1973. Under the provisions of section 19053, therefore, appellant's refund claim could not be allowed unless it was filed by April 15, 1973. Since appellant did not file it until July 20, 1973, respondent properly denied it for untimeliness.

Appellant's only argument on appeal is that his claim should not be denied since he was unaware of the statute of limitations contained in section 19053 until informed of its existence by respondent. We have previously held, however, **that** ignorance of the law does **not excuse** the **delinquent filing** of claims for refund. (Appeal of Cleo V. Mott, Cal. St. Bd. of Equal., Aug. 7, 1963; Appeal of E. C. and P. M. Braeunig, Cal. St. Bd. of Equal., Feb. 18, 1970.) We are constrained to hold, therefore, that appellant's refund claim was barred by the statute of limitations.

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O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant. to section 19060 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claim of **Tolbert D. Spradlin** for refund of personal income tax in the amount of \$68.63 for the year 1967, be and the same is hereby sustained.

Done at Sacramento, California, this 7th day of January, 1975 by the State Board of Equalization.

John W. Lynch, Chairman

Member

William A. Bernard, Member

George J. Kelly, Member

Member

ATTEST: W. W. Dunlop, Secretary