

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: )  
M. LEBLANC ) OTA Case No. 230813978  
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**OPINION**

Representing the Parties:

For Appellant: M. LeBlanc  
For Respondent: Ariana Macedo, Graduate Legal Assistant

A. VASSIGH, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. LeBlanc (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$2,988 for the 2018 tax year.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single administrative law judge. (Cal. Code Regs., tit. 18, § 30209.05.) Appellant waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

**ISSUE**

Whether the statute of limitations bars appellant’s claim for refund for the 2018 tax year.

**FACTUAL FINDINGS**

1. On July 6, 2023, appellant filed a California tax return for tax year 2018 reporting total tax of \$7,565, withholding in the amount of \$10,553 and a refund due in the amount of \$2,988.
2. FTB treated appellant’s 2018 California tax return as a claim for refund and sent appellant a notice dated July 26, 2023, denying appellant’s claim for refund on the basis that the statute of limitations had expired.
3. Appellant then filed this timely appeal.

## DISCUSSION

R&TC section 19306 sets forth the statute of limitations to file 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 return was filed, if the 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 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; *Appeal of Estate of Gillespie*, 2018-OTA-052P.) This is true even when it is later shown that the tax was never owed. (*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. (*Prussner v. U.S.* (7th Cir. 1990) 896 F.2d 218, 222-223, citing *U.S. v. Locke* (1985) 471 U.S. 84, 100-101 and *U.S. v. Boyle* (1985) 469 U.S. 241, 249.)

Because appellant did not file a timely return, the applicable claim for refund statute of limitations in this appeal is the later of four years from the last day prescribed for filing the return (without regard to any extension of time to file) or one year after the date of the overpayment. (R&TC, § 19306(a).) For the 2018 tax year, the four-year statute of limitations period expired on April 15, 2023 (four years from the due date of April 15, 2019). Appellant did not file a claim for refund until July 6, 2023. Appellant's claim for refund is 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 the claim for refund is filed. (R&TC, § 19306(a).) According to appellant's 2018 California tax return, appellant's withholdings is the source of the overpayment in question. "For purposes of computing the statute of limitations on refund claims, the date of all

withholding payments is deemed to be the original due date for filing the income tax return.” (Cal. Code Regs., tit. 18, § 19002(d)(1); see also R&TC, § 19002(c)(1), *Appeal of Jacqueline Mairghread Patterson Trust, supra.*) The original due date for filing appellant’s 2018 return was April 15, 2019. (R&TC, § 18566.) The deemed payment date of the withholding, April 15, 2019, was more than one year prior to the date when the claim for refund was filed, July 6, 2023. Accordingly, the claim for refund is also barred under the one-year statute of limitations.

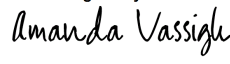
Appellant does not argue that she filed the 2018 California tax return within the statutes of limitations set forth in R&TC section 19306(a). Rather, appellant’s argument is equitable in nature. Appellant states that she was not aware that the statute of limitations applies even when there is no tax due, and that she needs these funds to pay her expenses. While the Office of Tax Appeals acknowledges appellant’s position, it can only grant relief where the law specifically allows. (*Appeal of Gillespie, supra.*) 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.*) This is true even when it is later shown that the tax was not owed in the first place. (*U.S. v. Dalm, supra.*)

#### HOLDING

The statute of limitations bars appellant’s claim for refund for the 2018 tax year.

#### DISPOSITION

FTB’s action denying appellant’s claim for refund for the 2018 tax year is sustained.

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Amanda Vassigh  
Administrative Law Judge

Date Issued: 5/10/2024