

3. From March 10, 2021, through November 5, 2021, respondent took collection action against appellants which satisfied the deficiency assessment.
4. On February 15, 2023, appellants filed a joint 2017 California Resident Income Tax Return (Return) reporting a lower tax due than respondent had assessed.
5. Respondent treated the Return as a refund claim and calculated an overpayment of \$5,665.33 for the 2017 tax year.
6. On March 20, 2023, respondent notified appellants that their overpayment would not be credited or refunded to them because the Return was filed outside the limitation period for making a refund claim.
7. This timely appeal followed.

DISCUSSION

Appellants argue that their refund claim was timely because it was filed after appellants' tax liability had been fully paid in 2021.

Appellants are mistaken as to the time in which a refund claim must be filed, which is the later of: (1) four years from the date the return is filed, if filed on or before 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).)

Here, the Return was untimely filed and therefore the time for filing a refund claim is the later of four years from the due date of the return or one year from the date of overpayment. The Return was due on April 15, 2018,² and appellants' last payment for the 2017 tax year was made on November 5, 2021. This means that the latest time for filing a refund claim for the 2017 tax year was November 5, 2022.

The Return, which was filed on February 15, 2023, therefore constitutes an untimely refund claim.

² Individual income tax returns filed on a calendar year basis are due on the 15th day of April following the close of the calendar year. (R&TC, § 18566.)

HOLDING

Appellants’ refund claim was untimely.

DISPOSITION

Respondent’s action is sustained.

DocuSigned by:
Huy “Mike” Le
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Huy “Mike” Le
Administrative Law Judge

We concur:
DocuSigned by:
Lauren Katagihara
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Lauren Katagihara
Administrative Law Judge

DocuSigned by:
Kenneth Gast
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Kenneth Gast
Administrative Law Judge

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