

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

In the Matter of the Appeal of: )  
B. TANAHUVIA ) OTA Case No. 230312853  
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**OPINION**

Representing the Parties:

For Appellant: B. Tanahuvia  
For Respondent: Alisa L. Pinarbasi, Attorney

E. LAM, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, B. Tanahuvia (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$4,031 for the 2016 tax year.

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 2016 tax year.

**FACTUAL FINDINGS**

1. On March 1, 2023, appellant untimely filed her 2016 California Resident Income Tax Return (Form 540). Appellant reported a total tax of \$757, California income tax withholding credits of \$4,788, and claimed an overpayment of \$4,031.
2. FTB processed the untimely filed tax return, treated it as a claim for refund, and denied it because it was filed outside of the statute of limitations.
3. This timely appeal followed.
4. On appeal, appellant claims that the 2016 tax return was received by FTB on April 15, 2017, and provides a purported copy of the certified mailing receipt with a USPS tracking number.

5. FTB is unable to verify the certified mailing receipt with the provided USPS tracking number and the received date is illegible.
6. FTB provides appellant's federal account transcript as of April 13, 2023, which indicates that appellant did not file a federal tax return and that the IRS prepared a tax return on appellant's behalf on July 26, 2021.

### DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed or made 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 pursuant to an extension of time to file; (2) four years from the due date for filing a return for the year at issue (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. (R&TC, § 19306(a).) For purposes of R&TC section 19306, income tax withholding credits are treated as paid on the last day prescribed for filing the return. (R&TC, § 19002(c)(1).) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Here, appellant's claim for refund for the 2016 tax year was untimely filed on March 1, 2023. The first four-year statute of limitations period is inapplicable because appellant's return was not filed pursuant to an extension of time to file. Appellant does not meet the second four-year statute of limitations period because she did not file her return until after the deadline to file a claim for refund, which originally expired on April 15, 2021, and was postponed to May 17, 2021, due to the COVID-19 pandemic.<sup>1</sup> Lastly, the one-year statute of limitations period is not met because appellant's withholding payment is deemed to have been paid on April 15, 2017; therefore, she had until April 15, 2018, to file a claim for refund related to that payment, but did not file her claim until March 1, 2023. (R&TC, § 19002(c)(1).) Therefore, appellant's claim for refund is properly barred by the statute of limitations.

On appeal, appellant asserts that she filed her California tax return on April 15, 2017 and met the statute of limitations deadline for submitting her claim for refund. In support, appellant provided a purported copy of the certified mailing receipt along with a USPS tracking number as evidence. (See Gov. Code, § 11003.) However, nothing on the certified return receipt shows

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<sup>1</sup> <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-may-17-2021.html>.

that appellant filed a 2016 return on April 15, 2017, because the tracking number does not validate that the mail was delivered. Before the end of this appeal’s briefing period, appellant has not presented a verifiable certified mailing receipt, complete with a tracking number, to validate the purported submission date of her original tax return on April 15, 2017. Furthermore, appellant’s federal account transcript for the 2016 tax year indicates that appellant never filed a 2016 federal tax return, which is a strong indication that the California return was also not filed on the original due date of April 15, 2017, despite appellant’s assertion. (See *Appeal of La Salle Hotel Company* (66-SBE-071) 1966 WL 1412.) Therefore, appellant has not satisfied her burden of proof in showing entitlement to a refund and that the claim for refund is timely.

HOLDING

The statute of limitations bars appellant’s claim for refund for the 2016 tax year.

DISPOSITION

FTB’s action denying the claim for refund is sustained.

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Eddy Y.H. Lam  
Administrative Law Judge

We concur:

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Kenneth Gast  
Administrative Law Judge

DocuSigned by:  
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John O. Johnson  
Administrative Law Judge

Date Issued: 7/8/2024