

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

In the Matter of the Appeal of:	)	OTA Case No. 230613455
<b>D. JANSMA</b>	)	
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**OPINION**

Representing the Parties:

For Appellant: D. Jansma

For Respondent: Joel M. Smith, Attorney

For Office of Tax Appeals: Louis Ambrose, Attorney

S. KIM, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, D. Jansma (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant’s claims for refund of \$823 for the 2015 tax year, \$456 for the 2016 tax year, and \$463 for the 2017 tax year.

Appellant waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

**ISSUE**

Whether the Office of Tax Appeals (OTA) has jurisdictional authority to hear and decide appellant’s appeal of FTB’s denials of the claims for refund.

### FACTUAL FINDINGS

1. On January 15, 2023, appellant filed California income tax returns for the 2015, 2016, and 2017 tax years. For each year, appellant reported California income tax withholdings in excess of the total tax due for that year, resulting in overpayments of \$823, \$456, and \$463 for 2015, 2016, and 2017, respectively. FTB processed the tax returns and considered the returns to be claims for refund.
2. On February 6, 2023, FTB issued appellant a separate notice for each tax year at issue, denying the claims for refund. The notices included detailed instructions explaining how to file an appeal with OTA, and stated that, if appellant disagreed with FTB's denials of the claims for refund, appellant must file an appeal with OTA within 90 days, or by May 7, 2023. The notices included OTA's contact information, including mailing address, telephone and fax numbers, and website address. The notices also included request for appeal forms with instructions to send the request for appeal forms to OTA by mail, fax, or email. The notices stated that appellant may submit new information to FTB for consideration, but that doing so would not extend the time period to file an appeal with OTA.
3. Appellant submitted to FTB a request for appeal form for each tax year at issue, dated February 17, 2023. Appellant did not file the request for appeal forms with OTA.
4. FTB sent OTA copies of appellant's request for appeal forms, which OTA received on June 2, 2023.

### DISCUSSION

OTA has jurisdiction to hear and decide an appeal of FTB's denial of a perfected claim for refund, provided that the appeal has been timely submitted to OTA within 90 days from the date FTB mails a notice denying a claim for refund. (Cal. Code Regs., tit. 18, §§ 30103(a)(3), 30203(a)(2).)<sup>1</sup> Any appeals correspondence, including requests for appeal, should be submitted to OTA electronically on OTA's website, by fax, or by mail addressed to OTA's mailing address. (Cal. Code Regs., tit. 18, § 30202(a).) Unless otherwise directed by OTA, proof of physical delivery of appeal correspondence to an address other than OTA's mailing address is

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<sup>1</sup> R&TC section 19324(a) provides that FTB's denial of a claim for refund is final at the expiration of 90 days from the mailing of the denial notice, unless the taxpayer appeals in writing to OTA within the 90-day period.

not sufficient to establish timely filing with OTA. (Cal. Code Regs., tit. 18, § 30202(c).) Mail addressed to a physical OTA office location, or to any location other than OTA’s mailing address, is not considered properly addressed for delivery of appeal correspondence. (*Ibid.*)

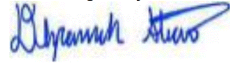
Here, FTB issued appellant notices on February 6, 2023, denying appellant’s claims for refund for the 2015, 2016, and 2017 tax years. Thus, appellant had 90 days, or until May 7, 2023, to timely file an appeal with OTA. (See Cal. Code Regs., tit. 18, § 30203(a)(2); R&TC, § 19324(a).) Appellant submitted requests for appeal of the denied claims for refund on February 17, 2023. However, appellant addressed the appeal correspondence to FTB instead of OTA, and the requests for appeal were delivered to FTB. OTA did not receive appellant’s requests for appeal until June 2, 2023, when FTB forwarded copies of appellant’s submissions to OTA. Appellant failed to file the requests for appeal with OTA by the May 7, 2023 deadline. Accordingly, OTA lacks jurisdiction to hear and decide these appeals.

HOLDING

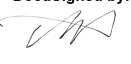
OTA does not have jurisdiction to hear and decide appellant’s appeals.

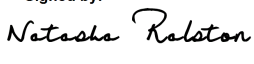
DISPOSITION

Appellant’s appeals are dismissed for lack of jurisdiction.

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Steven Kim  
Administrative Law Judge

We concur:

DocuSigned by:  
  
8A2294817A67463...  
Andrew Wong  
Administrative Law Judge

Signed by:  
  
25F8FE08FF56478...  
Natasha Ralston  
Administrative Law Judge

Date Issued: 8/13/2024