

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Appeal of:	)	OTA Case No. 230713907
	)	
<b>L. WONG</b>	)	
	)	
	)	
	)	

---

**OPINION**

Representing the Parties:

For Appellant:	Albert Zhang
----------------	--------------

For Respondent:	Tristen Thalhuber, Attorney
-----------------	-----------------------------

H. LE, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, L. Wong (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$1,850<sup>1</sup> 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 appellant’s claim for refund for the 2018 tax year is barred by the statute of limitations.

---

<sup>1</sup> On appeal, respondent argues that the “actual amount of the barred overpayment is only \$367” because appellant incorrectly changed her filing status to from single to head of household on her 2018 amended return.

### FACTUAL FINDINGS

1. Appellant filed a timely original 2018 California income tax return. Appellant's return reported withholding credits of \$1,967 and a total amount due of \$1,729. Appellant remitted \$1,729 with her return.
2. On June 23, 2023, appellant filed an amended 2018 California income tax return, claiming a refund.
3. Respondent processed appellant's amended return and issued a Statute of Limitations Notice, denying appellant's claim for refund.
4. Then, appellant filed this timely appeal.

### DISCUSSION

R&TC section 19306 imposes a 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 an extension of time to file; (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 untimely filing of a claim for refund for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) While fixed deadlines may appear harsh because they can be missed, the resulting occasional harshness is redeemed by the clarity imparted. (*Ibid.*) Because appellant did not file a return within the extended filing period, the applicable statute of limitations in this appeal is either the later of four years from the last day prescribed for filing the tax 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 expired on April 15, 2023, four years from the due date of the tax return of April 15, 2019. Appellant's amended 2018 tax return

was filed on June 23, 2023, after the expiration of the four-year statute of limitations. Therefore, respondent is barred from refunding or crediting any overpayment for the 2018 tax year under the four-year statute of limitations. Appellant argues that the four-year statute of limitations should be extended based on respondent's press release extending the 2022 filing deadlines for taxpayers impacted by 2022-2023 winter storms.<sup>2</sup> However, this press release only refers to returns due on April 18, 2023, and makes no mention of extending the filing deadline for filing a claim for refund.

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).) For purposes of computing the statute of limitations on refund claims, amounts withheld are deemed to have been paid on the original due date for filing the return; therefore, appellant's withholding of \$1,967 is deemed paid on April 15, 2019. (R&TC, § 19002(c)(1).) Respondent also received a payment of \$1,729 for the 2018 tax year on April 15, 2019. Because appellant did not file her claim for refund until June 23, 2023, and both of these payments were made prior to June 23, 2022, the one-year statute of limitations bars a refund or credit of the overpayment for the 2018 tax year.

Appellant asserts that she was unable to file a timely refund due to personal difficulties that occurred, including living in a storm affected area, dealing with the loss of her mother, and suffering from COVID-19 symptoms. While the Office of Tax Appeals is sympathetic to the difficulties appellant describes, neither "ill health nor any other unfortunate circumstance can extend the statute of limitations for filing a claim for refund." (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)<sup>3</sup>

---

<sup>2</sup> See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2023-03-ftb-california-winter-storm-tax-relief-extension.html>.

<sup>3</sup> Appellant has also not provided evidence to show she was "financially disabled" under R&TC section 19316, as requested by respondent. (See *Appeal of Estate of Gillespie*, *supra*.)

HOLDING

Appellant's claim for refund for the 2018 tax year is barred by the statute of limitations.

DISPOSITION

Respondent's action denying appellant's claim for refund is sustained.

DocuSigned by:

Huy "Mike" Le

AT1783ADD49432B...

Huy "Mike" Le  
Administrative Law Judge

Date Issued: 9/11/2024