

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 240716688
B. MORALES AND)	
M. MORALES)	
)	
)	

OPINION

Representing the Parties:

For Appellants:	B. Morales
For Respondent:	Rosemary Villasenor, Senior Legal Analyst

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, B. Morales and M. Morales (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$4,662 for the 2019 tax year.

Appellants elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05.) Appellants waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether appellants' claim for refund is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellants timely filed a California Resident Income Tax Return (Form 540) for the 2019 tax year on April 3, 2020. Appellants reported withholding credits in excess of their total tax liability and claimed a refund of \$2,573. FTB accepted the return as filed and issued a refund of \$2,573.
2. On February 21, 2024, FTB sent each appellant a letter to inform them that FTB received non-wage withholding credits for appellants' 2019 tax year that were not claimed on appellants' 2019 Form 540. FTB provided a summary of the statute of

- limitations and advised appellants that FTB may not be able to allow a refund or a credit if appellants did not respond in a timely manner.
3. On May 10, 2024, appellants filed an amended 2019 Form 540 to include the additional non-wage withholding credits of \$4,662.
 4. FTB treated the amended Form 540 as a claim for refund of \$4,662 and denied the claim due to the expiration of the statute of limitations.
 5. Appellants filed this timely appeal.

DISCUSSION

R&TC section 19306(a) provides 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 pursuant to an extension of time to file; (2) four years from the last date prescribed 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. For purposes of R&TC section 19306, amounts withheld are deemed paid on the original return due date. (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 Benemi Partners, L.P.*, 2020-OTA-144P.)

Here, appellants timely filed their 2019 Form 540 on April 3, 2020, before the original due date of the return. Therefore, the four-year statute of limitations period expired on April 15, 2024, four years from the original due date of the tax return. Since withholding credits are deemed to be paid on the original due date of the return, in this case April 15, 2020, the one-year statute of limitations expired on April 15, 2021. As such, the later of the four-year or one-year statute of limitations was April 15, 2024. Since appellants filed the claim for refund on May 10, 2024, the claim for refund is barred by the statute of limitations.

On appeal, appellants assert that they filed their claim for refund within the four-year statute of limitations based on the special tax relief due to COVID-19 that postponed the filing and payment deadlines for individuals until July 15, 2020.¹ Additionally, appellants contend that the statute of limitations should not bar their claim for refund because the closing statement they received from their escrow company did not report the state withholding amount, and then FTB was late in notifying appellants of the overpayment.

¹ It appears appellants are arguing that since the due date for the 2019 return was postponed until July 15, 2020, the four-year statute of limitations from the last date prescribed for filing a return should be July 15, 2024. (See [www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-5-april-15-tax-day-postponed-until-july-15-2020.html].)

As explained above, in this case, the statute of limitations expired on April 15, 2024. FTB's authority to grant state of emergency postponements for tax-related acts is pursuant to R&TC section 18572(b), which adopts Internal Revenue Code (IRC) section 7508A.² (*Appeal of Bannon*, 2023-OTA-096P.) When applying the IRC for purposes of California personal income tax, IRS Treasury Regulations shall be applicable to the extent that they do not conflict with California personal income tax code sections or regulations. (R&TC, § 17024.5.) Treasury Regulation section 301.7508A-1(b)(4) provides that "to the extent that other statutes may rely on the date a return is due to be filed, the postponement period will not change the due date of the return." Accordingly, FTB's postponement of the due date to July 15, 2020, did not change the original due date of April 15, 2020, upon which the four-year statute of limitations for refunds is based on in this appeal.

Regarding appellants' argument that they received an inaccurate escrow statement and then FTB delayed in notifying appellants of the overpayment, FTB has no duty to discover a taxpayer's overpayments of income tax or to notify the taxpayer of such overpayments. (See *Appeal of Cervantes* (74-SBE-029) 1974 WL 2844 [taxpayers' argument that FTB should have notified them of their overpayment did not permit taxpayers to file a claim for refund outside of the statute of limitations].) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, *supra*.) A taxpayer's untimely filing of a claim for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) Therefore, the receipt of an incorrect escrow statement and the timing of FTB's notification of overpayment have no impact on the statute of limitations.

As discussed above, appellants' statute of limitations expired on April 15, 2024. Since appellants filed their claim for refund on May 10, 2024, their claim for refund is barred by the statute of limitations.

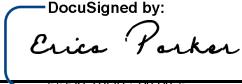
² R&TC section 18572 only modifies IRC section 7508A to provide that postponements under this section apply to taxpayers affected by a state of emergency declared by the Governor of California, as opposed to a federally declared disaster.

HOLDING

Appellants' claim for refund is barred by the statute of limitations.

DISPOSITION

FTB's action denying appellants' claim for refund is sustained.

DocuSigned by:

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Erica Parker
Hearing Officer

Date Issued: 12/2/2024