



3. On December 20, 2021, February 2, 2022, March 18, 2022, and September 8, 2022, FTB sent appellant P. Ruiz notices to inform her of the outstanding balance due for the 2019 tax year.
4. On May 17, 2022, FTB issued an Earnings Withholding Order for Taxes to appellant P. Ruiz's employer to collect the outstanding tax debt related to the 2019 tax year.
5. FTB received payments of \$1,051.39 and \$40.66 on December 9, 2021, \$206.50 on January 15, 2022, and \$510.09 on April 19, 2023, in satisfaction of the outstanding balance for the 2019 tax year.
6. On May 15, 2024, appellants filed a 2019 California Resident Income Tax Return with a filing status of married filing jointly, reporting total tax of \$41, California withholding of \$608, and an overpayment of \$567, which appellants requested to be refunded.
7. FTB accepted the return and treated it as a claim for refund. FTB credited the payments it collected from appellants and recomputed an overpayment of \$2,049.39. On June 12, 2024, FTB denied the claim for refund due to the expiration of the statute of limitations.
8. This timely appeal followed.

### 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.)

The first four-year statute of limitations period does not apply here as appellants did not timely file the 2019 tax return by the extended due date. The second four-year statute of limitations period to file a claim for refund expired on April 15, 2024, four years after the original return due date of April 15, 2020. The one-year statute of limitations period expired on April 19, 2024, which is one year from the date that FTB applied the final payment satisfying appellants' 2019 tax balance, April 19, 2023. As such, the later of the four-year and one-year statutes of limitations was April 19, 2024. Since appellants filed their claim for refund on May 15, 2024, the claim for refund is barred by the statute of limitations.

Appellants assert their claim for refund should not be barred because “in order for a tax return to have a statute of limitations, a tax return must be filed.” Appellants also contend that they only had withholding and did not make payments to FTB. Appellants provide no additional evidence or citation of law in support of their position.

As explained above, the second four-year statute of limitations period is not determined based on whether a return was filed; rather, it is determined four years after the due date of the return. In this case, the second four-year statute of limitations expired on April 15, 2024. Contrary to appellants’ contention that they only had withholding, FTB’s records show it received multiple payments between December 2021, through April 2023. If appellants did not remit these payments, they may have been collected through involuntary collection actions. However, the claim for refund was not filed within one year of any remitted payment, and the refund statute of limitations applies whether the payment was made voluntarily or involuntarily. The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P., supra.*) Since appellants filed their 2019 claim for refund on May 15, 2024, it is barred by the statute of limitations.

#### HOLDING

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

#### DISPOSITION

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

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*Erica Parker*  
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Erica Parker  
Hearing Officer

Date Issued: 2/5/2025