

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Appeal of:	)	OTA Case No. 240215375
<b>Z. RADMAN-BYRNES</b>	)	
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**OPINION**

Representing the Parties:

For Appellant:	Teresa A. Tosney, CPA
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For Respondent:	AnaMarija Antic-Jezildzic, Specialist
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S. HOSEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Z. Radman-Byrnes (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$17,319 for the 2018 tax year.

Appellant 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 appellant's claim for refund is barred by the statute of limitations.

**FACTUAL FINDINGS**

1. FTB issued appellant a Payment Received, No Return on File Notice on September 2, 2020, stating that FTB did not have record of an income tax return for the 2018 tax year, but an estimated tax payment of \$15,000 had been received.
2. FTB then obtained information indicating appellant had earned income from sources prompting a return filing requirement. FTB issued a Request for Tax Return, dated April 12, 2022. Appellant did not file a response.
3. FTB issued a Notice of Proposed Assessment (NPA) dated June 10, 2022, proposing tax and imposing a late filing penalty, plus interest. The NPA went final without protest by appellant.

4. On October 15, 2023, appellant filed her 2018 California Form 540 return, reporting qualifying widow(er) filing status, zero tax liability, estimated tax payments totaling, and an overpayment due of, \$62,319. FTB processed the return and revised the total estimated tax payments from \$62,319 to \$15,000 and credited \$2,319 as an estimated tax year transfer from the 2017 tax year.<sup>1</sup> After its adjustments, FTB calculated an overpayment of \$17,319. However, FTB determined that the claim for refund was filed after the statute of limitations expired and denied appellant's claim.
5. This timely appeal followed.

### DISCUSSION

If it is determined that there has been an overpayment of any liability imposed under the Personal Income Tax Law, by a taxpayer for any year for any reason, the amount of the overpayment may be credited against any amount due from the taxpayer and the balance shall be refunded to the taxpayer. (R&TC, § 19301(a); *Appeal of Cornbleth*, 2019-OTA-408P.) 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; Cal. Code Regs, tit. 18, § 30219(a).)

R&TC section 19306 provides that no credit or refund may 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 due date for filing a return (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, amounts withheld are deemed to be paid on the original return due date. (R&TC, § 19002(c)(1).) There is generally no reasonable cause or equitable basis for suspending the statute of limitations.<sup>2</sup> (*Appeal of Benemi Partners, L.P.*, *supra*.)

Here, appellant filed a return for the 2018 tax year on October 15, 2023, which FTB treated as a claim for refund. The first four-year statute of limitations period described in R&TC section 19306(a) is not applicable because appellant did not file the return within the extended filing period ending on October 15, 2019. The second four-year statute of limitations period to file a claim for refund expired on April 15, 2023, four years from the original due date of

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<sup>1</sup> The estimated tax year transfer appears to be an overpayment of tax amount that appellant and her deceased spouse reported on their 2017 joint tax year return and elected to apply to their 2018 estimated tax.

<sup>2</sup> There is narrow exception where the statute of limitations provision may be suspended, but appellant has not raised it on appeal and the facts do not support its application here. (See R&TC, § 19316 [financial disability].)

appellant's 2018 return. (R&TC, §§ 19306(a), 18566.) Appellant's claim for refund was filed after the second four-year statute of limitations period expired.

The alternative one-year statute of limitations period described in R&TC section 19306(a) expired one year from the date of appellant's overpayment. Appellant's estimated tax year transfer from the 2017 tax year was on April 15, 2018.<sup>3</sup> Appellant's estimated tax payment of \$15,000 was made on May 2, 2018. Therefore, the one-year statute of limitations expired on April 15, 2019, and May 2, 2019, respectively, and appellant's claim for refund was filed on October 15, 2023, after both applicable one-year statute of limitations periods expired. In sum, appellant did not timely file a refund claim for the 2018 tax year within the four-year or one-year statute of limitation periods.

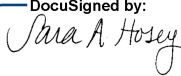
The language of the statute of limitations is explicit and must be strictly construed, without exception. (*Appeal of Benemi Partners, L.P.*, *supra*.) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*) Because appellant's claim for refund was untimely, it is barred by the statute of limitations.

#### HOLDING


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

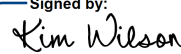
#### DISPOSITION

FTB's action is sustained.

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Sara A. Hosey  
Administrative Law Judge

We concur:

Signed by:  
  
C04CD432E3254ED...  
Seth Elsom  
Hearing Officer

Signed by:  
  
4E8E740EDB984CD...  
Kim Wilson  
Hearing Officer

Date Issued: 1/31/2025

<sup>3</sup> The plain language of R&TC section 19306(a) specifically bars both refunds and credits, unless the claim for refund or credit is made within the applicable statute of limitations discussed above.