

**S. LOTHROP AND
M. LOTHROP**

▶▶▶▶▶

1. On April 15, 2019, appellants timely filed a 2018 California Resident Income Tax Return. On the return, appellants reported total tax of \$31,528, withholding credits of \$11,823, estimated tax payments of \$23,400, and overpaid tax of \$3,695, of which \$3,629 was requested to be credited to their 2019 tax year as an estimated tax payment and \$66 was requested to be paid toward a self-imposed underpayment of estimated tax penalty.
2. On June 12, 2019, FTB sent appellants a Notice of Tax Return Change-Revised Balance, informing them that its records showed appellants had estimated tax payments

of \$17,749, rather than \$23,400, and appellants had a balance due of \$2,010.60 for the 2018 tax year.¹

3. On October 25, 2023, appellants filed a 2018 amended California Resident Income Tax Return. The amended return reported tax of \$35,991 and tax credits totaling \$35,991, resulting in total tax of \$0, and an overpayment of \$35,223. Appellants requested a refund of \$35,223.
4. FTB accepted the reported tax amount and treated the amended return as appellants' claim for refund. On November 28, 2023, FTB denied appellants' claim for refund of \$31,545.81² due to the expiration of the statute of limitations.
5. This timely appeal followed.

DISCUSSION

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 for the year at issue (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, withholding credits are treated as paid on the last day prescribed for filing the return. (R&TC, § 19002(c)(1).) In an action for refund, taxpayers have the burden of proof to show that a refund is warranted and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

The law does not provide for the suspension of the statutory period based on reasonable cause or extenuating circumstances.³ (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The

¹ Appellants remitted a payment of \$2,010.60 on June 20, 2019.

² The difference between the refund requested by appellants of \$35,223 and the amount denied by FTB of \$31,545.81 is due to appellant's overreporting of estimated tax payments. FTB's calculation differs because it includes only amounts actually paid by appellants: estimated tax payments received of \$17,749, plus withholdings of \$11,823, plus the additional payment of \$2,010.60, plus a write-off credit of \$2.21, minus a revised estimated tax penalty of \$39, equals \$31,545.81. Appellants appeal the \$31,545.81 that FTB denied and the amount at issue in this appeal is \$31,545.81.

³ Appellants provide reasonable cause arguments. However, as noted above, there is no reasonable cause exception to the statute of limitations. (*Appeal of Benemi Partners, L.P.*, *supra*.) In addition, this Opinion holds that appellants filed their claim for refund within the statute of limitations, as postponed, as a result of the 2023 California winter storms.

language of section 19306 is explicit and must be strictly construed, without exception.⁴ (*Ibid.*) If the taxpayers fail to file a claim for refund within the statute of limitations, the taxpayers are barred from later filing a claim for refund, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Appellants filed their original 2018 tax return by the April 15, 2019 original filing deadline. Therefore, pursuant to R&TC section 19306(a), the four-year statute of limitations period expired on April 15, 2023, four years from the original due date of the 2018 tax return. FTB received appellants' 2018 amended return on October 25, 2023, which it treated as a claim for refund.⁵ As a result, appellants' claim for refund was filed after the expiration of the four-year statute of limitations on April 15, 2023.

However, due to the 2023 California winter storms, the IRS issued Notice CA-2023-01 and CA-2023-02 that granted affected taxpayers until May 15, 2023, to perform time-sensitive actions described in Treasury Regulation section 301.7508A-1(c)(1), which expressly includes the "[f]iling a claim for credit or refund of any tax." (Treas. Reg. § 301.7508A-1(c)(1)(v).) This May 15, 2023 deadline was later extended to October 16, 2023, and subsequently to November 16, 2023.⁶ The postponement relates to certain deadlines falling on or after January 8, 2023, through November 16, 2023, and applies to "individuals and households affected by severe winter storms, flooding, and mudslides that reside or have a business" in certain California counties.⁷ Appellants reside in Riverside County, which is a qualifying county. In addition, the original deadline for appellants to file a claim for refund was April 15, 2023, which is during the applicable postponement period of January 8, 2023, to November 16, 2023.

⁴ The time for filing a claim for refund may be extended if an individual taxpayer is "financially disabled," meaning he or she is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months. (R&TC, § 19316(b); *Appeal of Estate of Gillespie*, *supra*.) Appellants do not provide any argument or evidence to show they were financially disabled.

⁵ As previously noted, FTB accepted the reported tax amount and treated the amended return as appellants' claim for refund but adjusted the refund amount to \$31,545.81, which it denied.

⁶ See IR-2023-189, Oct. 16, 2023, available at: <https://www.irs.gov/newsroom/for-california-storm-victims-irs-postpones-tax-filing-and-tax-payment-deadline-to-nov-16>.

⁷ Counties qualifying for relief include all counties except Lassen, Modoc and Shasta. See <https://www.irs.gov/newsroom/irs-announces-tax-relief-for-victims-of-severe-winter-storms-flooding-and-mudslides-in-california>.


In a news release, FTB stated that it conformed to IR-2023-189, which extended the federal deadline for those affected by the 2023 California winter storms to November 16, 2023.⁸ In that same news release, FTB also stated that “FTB generally conforms to IRS postponement periods for presidentially declared disasters.”⁹ Therefore, appellants timely filed their claim for refund within FTB’s postponement period, which postponed the four-year statute of limitations to timely file a claim for refund to November 16, 2023.

HOLDING

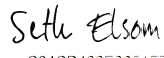
Appellants’ claim for refund for the 2018 tax year is not barred by the statute of limitations.


DISPOSITION

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

Signed by:

CB1F7DA37831416
 Josh Lambert
 Administrative Law Judge

We concur:

Signed by:

C04CD432E3254ED...
 Seth Elsom
 Hearing Officer

DocuSigned by:

5DD7EF644397430
 Steven Kim
 Administrative Law Judge

Date Issued: 2/6/2025

⁸ See www.ftb.ca.gov/about-ftb/newsroom/news-releases/10-16-extended-tax-deadline.html; see also www.ftb.ca.gov/about-ftb/newsroom/news-releases/2023-10-due-date-for-tax-returns-payments-moved.html.

⁹ FTB’s authority to grant state of emergency postponements for tax-related acts is found in R&TC section 18572(b), which adopts Internal Revenue Code (IRC) section 7508A. (See also *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; *Ibid.*)