

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: )  
**A. GONZALES** ) OTA Case No. 240716798  
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**OPINION**

Representing the Parties:

For Appellant: A. Gonzales

For Respondent: Vicki M. Leclerc, Program Specialist

For Office of Tax Appeals: Nguyen Dang, Attorney

K. GAST, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, A. Gonzales (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$4,188.50 for the 2019 tax year.

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

**ISSUE**

Whether appellant’s refund claim for the 2019 tax year was timely.

**FACTUAL FINDINGS**

1. On May 24, 2024, FTB received appellant’s late filed 2019 California income tax return (Return) requesting a refund of \$4,324.
2. FTB processed the Return and computed an overpayment of \$4,188.50, which appellant does not dispute.<sup>1</sup>
3. FTB did not credit or refund appellant’s overpayment because it determined that the Return was filed outside the limitation period for making a refund claim.
4. FTB issued a claim denial notice from which appellant timely appeals.

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<sup>1</sup> On appeal, FTB now computes an overpayment of \$4,233.

## DISCUSSION

The law generally requires that taxpayers file their refund claims by the later of: (1) four years from the date the return is filed, if filed on or before the extended due date; (2) four years from the due date of the return without regard to any extensions; or (3) one year from the date of overpayment. (R&TC, § 19306(a).) Taxpayers bear the burden of proving, by a preponderance of evidence, that a refund claim was timely filed, and the untimely filing of a claim for any reason bars a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellant's only argument is that the refund claim was timely under the four-year limitation period because FTB postponed the 2019 tax year filing deadline for individual returns to July 15, 2020, which in turn allowed appellant until July 15, 2024, to file the refund claim. For taxpayers who are affected by a federally declared disaster or a state of emergency declared by the Governor, R&TC section 18572 permits FTB to disregard a period of up to one year in determining whether certain tax-related acts were performed within the time prescribed.<sup>2</sup> In other words, the statute permits FTB to treat as timely an otherwise untimely return filed on or before the postponement date. Appellant is correct that during the COVID-19 pandemic, FTB exercised its authority under the statute to postpone the 2019 return filing deadline.<sup>3</sup> This postponement, however, did not alter the date the four-year limitation period began to run under R&TC section 19306(a) for refund claim purposes.

As discussed in *Appeal of Bannon*, 2023-OTA-096P, "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." (*Appeal of Bannon*, *supra*, citing Treasury Regulation section 301.7508A-1(b)(4).) It would also make little sense for FTB to postpone the statute of limitations for filing a refund claim in 2024 for a disaster or state of emergency occurring in 2020, which is the result advocated by appellant. While FTB did issue a COVID-19 postponement of the statute of limitations for making a refund claim, the postponement was for limitation periods expiring during the period March 12, 2020, through July 15, 2020. (FTB Notice 2020-02.)

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<sup>2</sup> R&TC section 18572 incorporates, with some modifications, Internal Revenue Code section 7508A.

<sup>3</sup> See State Postpones Tax Deadlines Until July 15 Due to the COVID-19 Pandemic, <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-3-state-postpones-tax-deadlines-until-july-15-due-to-the-covid-19-pandemic.html>.

In conclusion, FTB’s COVID-19 postponement did not change the last day prescribed for filing a return, which, for the 2019 tax year, was April 15, 2020. (R&TC, § 18566.) And because appellant’s claim was filed more than four years after that date, it is untimely.

HOLDING

Appellant’s refund claim for the 2019 tax year was not timely.

DISPOSITION

FTB’s action is sustained.

DocuSigned by:  
*Kenneth Gast*  
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Kenneth Gast  
Administrative Law Judge

We concur:

Signed by:  
*Veronica I. Long*  
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Veronica I. Long  
Administrative Law Judge

DocuSigned by:  
*Sara A. Hosey*  
6D3EE4A0CA514E7  
Sara A. Hosey  
Administrative Law Judge

Date Issued: 3/13/2025