



## DISCUSSION

R&TC section 19306(a) requires taxpayers to 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 last day prescribed for filing the return (determined without regard to any extension of time for filing the return);” or (3) one year from the date of overpayment.

Appellants’ sole argument is that their May 15, 2024, refund claim is timely under the four-year limitation period described above for an untimely filed return. According to appellants, the last day prescribed for filing an individual tax return for the 2019 tax year was changed by FTB from April 15, 2020, to July 15, 2020, which in turn allowed appellants until July 15, 2024, to file their refund claim.

On March 18, 2020, FTB announced on its website that, due to the COVID-19 pandemic, it would postpone the 2019 tax return filing deadline for all individuals and business entities to July 15, 2020. (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>.) The filing postponement was made pursuant to R&TC section 18527,<sup>1</sup> which allows FTB to disregard a period of up to one year in determining whether certain tax-related acts were performed within the time prescribed, for taxpayers who are affected by a federally declared disaster or a state of emergency declared by the Governor.

R&TC section 18572 does not provide FTB with the authority to alter the statutorily prescribed filing deadline as set forth in R&TC section 18566. (*Appeal of Bannon*, 2023-OTA-096P.) Rather, it merely permits FTB to treat as timely, an otherwise untimely return filed on or before the postponement date. (*Ibid.*) From a practical standpoint, 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 appellants. 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’s Notice 2020-02.)

In conclusion, FTB’s COVID-19 postponement did not change the last day prescribed for filing a return, which is April 15, 2020. And because appellants’ claim was filed more than four years after that date, it is untimely.

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<sup>1</sup> The statute incorporates, with some modifications, Internal Revenue Code section 7508A.

HOLDING

Appellants' refund claim was untimely.

DISPOSITION

FTB's action is sustained.

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

We concur:

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*Kenneth Gast*  
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Kenneth Gast  
Administrative Law Judge

DocuSigned by:  
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Sara A. Hosey  
Administrative Law Judge

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