

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. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

The parties agree that appellants had until April 15, 2023, to file a refund claim for the 2018 tax year.¹ Appellants do not dispute that their refund claim was not received by FTB until one year after the statute of limitations had expired. However, appellants contend the Return, and hence the refund claim stated therein, was originally filed electronically on January 22, 2022, prior to the expiration of the four-year limitation period for untimely returns. In support, appellants provide a California e-file authorization form for the 2020 tax year and a “Return History” for C. Bauer showing “Return Transmitted” on January 22, 2022.

A document that is electronically filed with an authorized electronic return transmitter in the manner and time prescribed, is considered filed on the date and time shown on an “electronic postmark,” regardless of when the document is received by FTB. (R&TC, § 21027(b) incorporating Treas. Reg. section 301.7502-1(d)(1).) An electronic postmark means a record of the date and time that an authorized return transmitter receives the transmission of a taxpayer’s electronically filed document on its host system. (Treas. Reg. § 301.7502-1(d)(3)(ii).)

The evidence provided by appellants does not constitute a valid electronic postmark. These documents merely show that appellants may have electronically filed other, unrelated tax returns, but do not specifically indicate that their 2018 California income tax return was electronically filed on January 22, 2022, much less than it was transmitted to and received by an authorized electronic return transmitter.

Appellants’ failure to produce an electronic postmark means that the Return was filed when received by FTB, which is after the statute of limitations for making a refund claim had expired. (*U.S. v. Lombardo* (1916) 241 U.S. 73, 76-77 [generally, a document is considered filed with the government when it is delivered and received by the proper agency or official].)

¹ The original due date for the Return without regard for any extension was April 15, 2019. (R&TC, § 18566.)

HOLDING

Appellants' claim for refund was not timely.

DISPOSITION

FTB's action is sustained.

DocuSigned by:
Sara A. Hosey
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Sara A. Hosey
Administrative Law Judge

We concur:

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

DocuSigned by:
Kenneth Gast
3AE5C32BB93B456
Kenneth Gast
Administrative Law Judge

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