



3. From June 23, 2022, through May 3, 2023, FTB received payments totaling \$2,266.94 on appellants' account, including payments totaling \$750 which were made on or after March 1, 2023.
4. On March 1, 2024, appellants untimely filed a 2017 California tax return reflecting total tax of \$183. FTB accepted appellants' return as filed, reduced the demand penalty to \$45.75, and removed the late filing penalty and filing enforcement fee. FTB transferred \$602.20 of overpayment from appellants' 2017 account to another tax year, resulting in a remaining overpayment of \$2,108.19 on appellants' 2017 account.
5. In regard to the remaining overpayment of \$2,108.19, FTB determined appellants had filed the claim for refund after the statute of limitations had lapsed and denied the claim.
6. Appellants filed this timely appeal.
7. On appeal, FTB concedes that an additional payment of \$150 was made within the statute of limitations and will either be refunded to appellants or credited to another tax year at the conclusion of this appeal.

#### DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306, which provides, in pertinent part, 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 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).) Additionally, for purposes of R&TC section 19306, the withholding payments made by appellants during the 2017 tax year are deemed paid on the due date of the tax return, without regard to any extension of time for filing the return. (R&TC, § 19002(c).) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellants untimely filed their 2017 tax return, and therefore appellants had four years from the due date for filing their 2017 tax return, or April 15, 2022, in which to timely file a claim for refund, or one year from the date of overpayment, whichever date occurs later. (R&TC, § 19306(a).) Because appellants' claim for refund was filed on March 1, 2024, it was untimely under the second four-year statutory deadline. Under the one-year statute of limitations, the claim will be timely only with regard to payments made within one year on or before March 1, 2024. Appellants made payments totaling \$750 on or after March 1, 2023. FTB

transferred \$602.20<sup>1</sup> to another tax year and has agreed to credit or refund an additional \$150 at the conclusion of this appeal. The remaining payments were made outside the one-year statute of limitations, and so the statutory period to file a claim for refund for those payments lapsed.


Appellants contend that their 2017 tax return was filed in 2020 and that copies were sent to FTB in 2022 and 2024. However, appellants have the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie, supra.*) Appellants have provided no evidence supporting their claim that their 2017 return was filed earlier than March 1, 2024. Accordingly, appellants have not met their burden of proof in showing entitlement to a claim for refund.

HOLDING

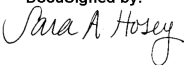
Appellants' claim for refund is barred by the statute of limitations.

DISPOSITION

FTB's action is modified consistent with its concession that \$150 will be refunded to appellants or credited to another tax year at the conclusion of this appeal, but is otherwise sustained.

Signed by:  
  
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Veronica I. Long  
Administrative Law Judge

We concur:

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Sara A. Hosey  
Administrative Law Judge

DocuSigned by:  
  
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Kenneth Gast  
Administrative Law Judge

Date Issued: 3/7/2025

<sup>1</sup> This amount includes interest of \$2.02 on appellants' overpayment.