

DISCUSSION

Appellants do not dispute that their refund claim was untimely filed.¹ Rather, appellants assert they were not aware of the statute of limitations and ask that OTA grant the claim due to financial hardship.

Although OTA is sympathetic to appellants' situation, OTA does not have the authority to grant an untimely refund claim. The statute of limitations must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Except in very limited situations which are not present here,² a taxpayer's untimely filing of a refund claim for *any reason* bars a refund. (*Ibid.*) This is true even if the tax was not owed in the first place. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional unfairness is necessary to allow for a more workable tax system and is redeemed by the clarity imparted. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

¹ 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).)

² For instance, R&TC section 19316 suspends the running of the statute of limitations during any period where the taxpayer 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.

HOLDING

Appellants are not entitled to a refund or credit of their overpayment for the 2019 tax year.

DISPOSITION

FTB's action is sustained.

DocuSigned by:
Kenneth Gast
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Kenneth Gast
Administrative Law Judge

We concur:

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

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

Date Issued: 2/27/2025