

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
J. ALVAREZ) OTA Case No. 240816974
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OPINION

Representing the Parties:

For Appellant: J. Alvarez
For Respondent: David C. Cortez
Associate Government Program Analyst
For Office of Tax Appeals: Oliver Pfost, Attorney

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Alvarez (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$10,048.49 for the 2015 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 claim for refund for the 2015 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant did not file a timely 2015 California income tax return (Return).
2. FTB demanded that appellant file his 2015 Return.
3. Appellant did not respond to FTB’s demand.
4. FTB issued a Notice of Proposed Assessment (NPA) to appellant for the 2015 tax year based on an estimate of his income.
5. Appellant did not protest the NPA and it became final (i.e., due and payable).

6. FTB pursued collection action and, over a period of six years, received payments totaling \$17,039.41 for the 2015 tax year.
7. On June 6, 2024, appellant late filed his 2015 Return reporting California taxable income of \$0.
8. FTB processed the Return and treated it as a claim for refund. FTB determined that appellant's claim was timely with regard to payments totaling \$6,990.92, plus \$18.75 of allowed interest. FTB transferred \$1,279.50 to appellant's other tax years and issued appellant a refund of \$5,730.17. FTB disallowed the remaining refund claim of \$10,048.49 as being barred by the statute of limitations.
9. This timely appeal followed.

DISCUSSION

Appellant does not dispute that his 2015 Return was filed outside the general limitation period for making a refund claim.¹ Rather, appellant contends that his overpayment nonetheless be refunded to him because it constitutes an overpayment of tax and he was not informed by FTB that he would not receive a refund at the time the payments were received.

OTA has consistently held that the statute of limitations for filing a refund claim must be strictly construed; in other words, a taxpayer's untimely filing of a refund claim for *any reason* bars a refund. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even if, as occurred here, it is later shown that the tax was not owed in the first place. (*Ibid.*) Further, it is incumbent upon taxpayers to file a claim for refund within the specified time limit. FTB has no obligation to discover or inform taxpayers, of any overpayment. (*Appeal of Cervantes* (74-SBE-029) 1974 WL 2844.) Nor does the law require FTB to notify taxpayers of the time in which to file a refund claim. (*Appeal of Shagets* (82-SBE-170) 1982 WL 11847.) 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.)

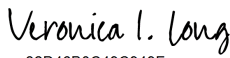
¹ The law generally requires that taxpayers file their refund claims by the later of: (1) four years from the date the return is filed, if filed on or before the extended due date; (2) four years from the due date of the return without regard to any extensions; or (3) one year from the date of overpayment. (R&TC, § 19306(a).)

HOLDING

Appellant's claim for refund for the 2015 tax year is barred by the statute of limitations.

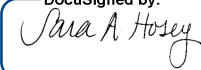
DISPOSITION

FTB's action is sustained.

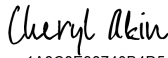
Signed by:

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Veronica I. Long
Administrative Law Judge

We concur:

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Sara A. Hosey
Administrative Law Judge

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Cheryl L. Akin
Administrative Law Judge

Date Issued: 3/11/2025