

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 240817016
R. DEIMLING)	
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OPINION

Representing the Parties:

For Appellant: R. Deimling

For Respondent: Leoangelo C. Cristobal, Attorney

C. AKIN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Deimling (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$2,603.29 for the 2018 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 is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant did not timely file a 2018 California income tax return (Return).
2. FTB sent appellant a Demand for Tax Return (Demand) for the 2018 tax year.
3. After appellant failed to respond to the Demand, FTB issued a Notice of Proposed Assessment (NPA) estimating appellant's income and proposing tax, penalties, a fee, and interest.
4. Appellant did not protest the NPA and it became due and payable. FTB collected payments from appellant on March 1, 2022, November 3, 2022, and March 9, 2023.
5. On April 2, 2024, appellant untimely filed his 2018 Return. FTB accepted the Return as filed and treated it as a claim for refund in the amount of \$2,603.29.
6. FTB denied appellant's claim for refund and this timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. The statute of limitations 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 filed timely 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).) 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.)

The first four-year statute of limitations period is not applicable because appellant did not timely file his 2018 Return pursuant to an extension of time to file. The second four-year statute of limitations period expired on April 15, 2023, four years from the April 15, 2019 original filing deadline for appellant's 2018 Return. (R&TC, §§ 19306(a), 18566.) Appellant's 2018 Return (treated as appellant's claim for refund) was not filed until April 2, 2024, approximately one year after the expiration of the four-year statute of limitations period. Appellant's claim for refund is, therefore, untimely under the four-year statute of limitations.

The one-year statute of limitations period runs one year from the date of the overpayment. At issue in this appeal are appellant's three payments made on March 1, 2022, November 3, 2022, and March 9, 2023. The one-year statute of limitations for these three payments expired on March 1, 2023, November 3, 2023, and March 9, 2024. Thus, appellant's claim for refund filed on April 2, 2024, is also untimely under the one-year statute of limitations.

On appeal, appellant notes various difficult circumstances he was experiencing which contributed to the late filing of his 2018 claim for refund, including being a single parent, relocating across the country, an ill child, and the COVID-19 pandemic. OTA understands appellant's arguments regarding these difficult circumstances. However, these are equitable or reasonable cause arguments, and the law does not permit the suspending of the statute of limitations based on reasonable cause or equity. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The language of the statute of limitations is explicit and must be strictly construed. (*Ibid.*) Except under very limited situations which are not present here, neither ill health of a taxpayer nor any other unfortunate circumstances can extend the statute of limitations for filing

a claim for refund.¹ (*Appeal of Estate of Gillespie, supra.*) While OTA is sympathetic of the circumstances faced by appellant, without a legislatively enacted exception to the statute of limitations, OTA does not have the legal authority to alter the outcome of this matter in a more satisfactory way for appellant. (*Ibid.*)

HOLDING

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

DISPOSITION

FTB's action denying appellant's claim for refund is sustained.

DocuSigned by:



Cheryl L. Akin
Administrative Law Judge

We concur:

Signed by:



Veronica I. Long
Administrative Law Judge

DocuSigned by:



Sara A. Hosey
Administrative Law Judge

Date Issued: 3/4/2025

¹ 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.