

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

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| In the Matter of the Appeal of: |) | OTA Case No. 240215270 |
| R. POMREHN |) | |
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OPINION

Representing the Parties:

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| For Appellant: | R. Pomrehn |
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| For Respondent: | Ariana Macedo, Graduate Legal Assistant |
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| For Office of Tax Appeals: | Westley Marcelo, Attorney |
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J. ALDRICH, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Pomrehn (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of \$3,763 for the 2018 tax year.

Appellant waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

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

FACTUAL FINDINGS

1. Appellant untimely filed a 2018 California Resident Income Tax Return (return) on October 13, 2023, reporting an overpayment of \$3,763.
2. Appellant's address, reported on the return, is located in Humboldt County.
3. Respondent processed the return and issued appellant a notice explaining that a credit or refund of the overpaid amount was disallowed due to the expiration of the statute of limitations.
4. Appellant timely appealed.

DISCUSSION

R&TC section 19306(a) provides 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 (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (Cal. Code Regs., tit. 18, § 30219(a)-(b); *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Here, appellant's 2018 return, filed on October 13, 2023, is treated as appellant's claim for refund. The applicable four-year statute of limitations period for appellant's refund claim expired on April 15, 2023, four years from the original due date of the return. Thus, appellant's refund claim was filed outside of the four-year statutory period.

However, due to the 2023 California winter storms, the IRS issued Notice CA-2023-01 and CA-2023-02 that granted affected taxpayers until May 15, 2023, to perform time-sensitive actions described in Treasury Regulation section 301.7508A-1(c)(1), which expressly includes filing a claim for credit or refund of any tax. (Treas. Reg. § 301.7508A-1(c)(1)(v).) This May 15, 2023, deadline was later extended to October 16, 2023, and subsequently to November 16, 2023.¹ The postponement relates to certain deadlines falling on or after December 27, 2022, through November 16, 2023, and applies to "individuals and households affected by severe winter storms, flooding, and mudslides that reside or have a business" in certain California counties.² Appellant's residence listed on the 2018 return was located in Humboldt County, which is a qualifying county. In addition, the original deadline for appellant to file a claim for refund was April 15, 2023, which is during the applicable postponement period of December 27, 2022, to November 16, 2023.

In a news release, respondent stated that it conformed to IR-2023-189, which extended the federal deadline for those affected by the 2023 California winter storms to

¹ See IR-2023-189, Oct. 16, 2023, available at: www.irs.gov/newsroom/for-california-storm-victims-irs-postpones-tax-filing-and-tax-payment-deadline-to-nov-16.

² Counties qualifying for relief include all counties except Lassen, Modoc and Shasta. See IRS Notice CA-2023-02, available at <https://www.irs.gov/newsroom/irs-announces-tax-relief-for-victims-of-severe-winter-storms-flooding-landslides-and-mudslides-in-california>.

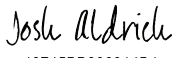
November 16, 2023.³ In that same news release, respondent also stated that it “generally conforms to the IRS postponement periods for presidentially declared disasters.”⁴ Therefore, appellant timely filed a claim for refund within respondent’s postponement period, which postponed the four-year statute of limitations to timely file a claim for refund to November 16, 2023.

HOLDING

Appellant’s claim for refund is not barred by the statute of limitations.


DISPOSITION

Respondent’s action denying appellant’s claim for refund is reversed.


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Josh Aldrich
Administrative Law Judge

We concur:

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Amanda Vassigh
Administrative Law Judge

DocuSigned by:

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Teresa A. Stanley
Administrative Law Judge

Date Issued: 2/26/2025

³ See www.ftb.ca.gov/about-ftb/newsroom/news-releases/10-16-extended-tax-deadline.html; see also www.ftb.ca.gov/about-ftb/newsroom/news-releases/2023-10-due-date-for-tax-returns-payments-moved.html.

⁴ Respondent’s authority to grant state of emergency postponements for tax-related acts is found in R&TC section 18572(b), which adopts Internal Revenue Code (IRC) section 7508A. (See also *Appeal of Bannon*, 2023-OTA-096P.) When applying the IRC for purposes of California personal income tax, IRS Treasury Regulations shall be applicable to the extent that they do not conflict with California personal income tax code sections or regulations. (R&TC, § 17024.5; *Appeal of Bannon*, *supra*.)