



### DISCUSSION

California 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).) Appellant filed a 2018 California personal income tax return on June 13, 2019, which was within the automatic six-month extension period. (Cal. Code Regs., tit. 18, § 18567(a).) Accordingly, the four-year statute of limitations period for appellant to file a claim for refund for the 2018 tax year expired on June 13, 2023.<sup>1</sup>

In an appeal before OTA, the burden of proof is on the taxpayer to show that a claim for refund is timely and that a refund should be granted. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) The applicable burden of proof is proof by a preponderance of the evidence. (Cal. Code Regs., tit. 18, § 30219(b); *Appeal of Estate of Gillespie*, *supra*.) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Appeal of Mauritzson*, 2021-OTA-198P.)

Appellant contends the amended return was first submitted at the same time he submitted an amended federal income tax return, and the IRS indicated it received the amended federal return on January 7, 2021. Appellant argues it is reasonable to conclude that FTB received the amended return around the same date because both the federal and state amended returns were sent at the same time.

Although appellant's contention is plausible, appellant has the burden of proof to show the timeliness of the refund claim. (*Appeal of Estate of Gillespie*, *supra*.) Unsupported assertions are not sufficient to satisfy that burden of proof. (*Appeal of Mauritzson*, *supra*.) Appellant has not provided evidence to support his contention that his amended return was filed earlier than January 8, 2024. Based on the available evidence, OTA finds appellant filed the claim for refund on January 8, 2024, and appellant's claim for refund is therefore barred by the statute of limitations.

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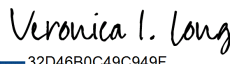
<sup>1</sup> It is undisputed that appellant's return is untimely under the one-year statute of limitations period.

HOLDING

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

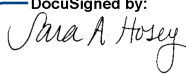
DISPOSITION

FTB's action is sustained.

Signed by:  
  
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Veronica I. Long  
Administrative Law Judge

We concur:

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Cheryl L. Akin  
Administrative Law Judge

DocuSigned by:  
  
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Sara H. Hosey  
Administrative Law Judge

Date Issued: 2/25/2025