

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 240716878
B. SHETH AND)	
E. SHETH)	
)	
)	

OPINION

Representing the Parties:

For Appellants:	B. Sheth
	E. Sheth

For Respondent:	Paige Chang, Attorney
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For Office of Tax Appeals:	Oliver Pfof, Attorney
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V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, B. Sheth and E. Sheth (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$16,190.93 for the 2018 tax year.

Appellants 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 appellants' claim for refund for the 2018 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. FTB received information indicating appellant B. Sheth realized sufficient income in the 2018 tax year to require the filing of a California state income tax return. FTB issued a notice which requested appellant B. Sheth file a return, provide evidence a return had already been filed, or explain why a return was not required.
2. FTB did not receive a response to its request, and it issued a Notice of Proposed Assessment (NPA) which proposed to assess tax based on an estimate of appellant B. Sheth's income.

3. When FTB did not timely receive a protest of the NPA, it became final, that is, due and payable.
4. Payments were made or transferred to appellant B. Sheth's 2018 tax account on September 1, 2022, and October 9, 2022.
5. On June 15, 2024, FTB received a joint 2018 California resident income tax return (tax return) from appellants. FTB treated the tax return as a claim for refund of \$16,190.93, which it denied for having been filed after the statute of limitations expired.¹
6. FTB issued a claim denial letter from which appellants timely filed this appeal.

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. California state income tax returns for individual taxpayers are due on April 15th following the close of the calendar year. (R&TC, § 18566.) Here, appellants filed the tax return and claim for refund on June 15, 2024, which is more than four years from the tax return's original due date, April 15, 2019, and more than one year from the payments received on September 1, 2022, and October 9, 2022. Appellants' claim for refund is therefore barred by the statute of limitations.

Appellants provide two separate arguments why the claim for refund should nevertheless be granted. First, appellants contend they mailed a paper return in April 2019 through the United States Postal Service, but for some unknown reason, it was not received by FTB. Second, appellants request the refund be granted for reasonable cause because they are experiencing personal hardship.

Taxpayers have the burden of proof in showing that a claim for refund is timely and that a refund should be granted. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) A taxpayer attempting to prove that a paper return was timely mailed must provide evidence, such as a registered or certified mail receipt, that shows the return was timely mailed to FTB. (Gov. Code, § 11003; *Appeal of Fisher*, 2022-OTA-337P.) Appellants have not provided any evidence showing they mailed a paper return for the 2018 tax year in April 2019. Without evidence of a

¹ The overpayment includes the two payments received in 2022 and tax withholding credited to appellant B. Sheth's 2018 tax account, which is deemed paid on April 15, 2019, less appellants' 2018 tax liability. (See R&TC, § 19002(c)(1).)

prior mailing, there is insufficient evidence to prove that FTB received a paper return from appellants before June 15, 2024.

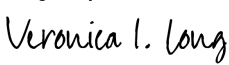
Concerning appellants' request for a refund based on reasonable cause, California law provides that, absent a statutory exception, the untimely filing of a claim for any reason bars a refund, and there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P., supra.*) The statute of limitations bars an untimely claim for refund even when it is shown that the tax was not owed in the first instance. (See *U.S. v. Dalm* (1990) 494 U.S. 596, 602.) Although OTA is sympathetic to appellants' circumstances, there is no reasonable cause or equitable basis to suspend the statute of limitations.

HOLDING

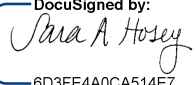
Appellants' claim for refund for the 2018 tax year is barred by the statute of limitations.

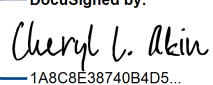
DISPOSITION

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

DocuSigned by:

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Cheryl L. Akin
Administrative Law Judge

Date Issued: 4/3/2025