

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Appeal of: )  
**M. SEIBLES** ) OTA Case No. 240416003  
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**OPINION**

Representing the Parties:

For Appellant: M. Seibles

For Respondent: Sarah J. Fassett, Attorney

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Seibles<sup>1</sup> (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant’s claims for refund of \$1,243.36, \$1,228.01, and \$938.34 for the 2012, 2013, and 2014 tax years, respectively.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05(b).)

Office of Tax Appeals (OTA) Administrative Law Judge Veronica I. Long held an oral hearing for this matter in Sacramento, California on February 19, 2025. At the conclusion of the oral hearing, the record was closed, and this matter was submitted on the oral hearing record pursuant to California Code of Regulations, title 18, section 30209(b).

**ISSUE**

Whether appellant’s claims for refund are barred by the statute of limitations.

**FACTUAL FINDINGS**

1. Appellant did not timely file 2012, 2013, or 2014 California income tax returns (Returns).
2. FTB sent appellant Demands for Tax Return (Demands) for each of the 2012, 2013, and 2014 tax years.

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<sup>1</sup> Although appellant and his spouse filed a joint return for the tax years at issue, appellant’s spouse did not sign the appeal letter. Accordingly, this appeal is in appellant’s name only.

3. After appellant failed to respond to the Demands, FTB issued Notices of Proposed Assessment (NPAs) estimating appellant's income and proposing tax, penalties, fees, and interest for each of the 2012, 2013, and 2014 tax years.
4. Appellant did not protest the NPAs and they became due and payable. For the 2012 tax year, FTB collected payments from appellant from April 15, 2016, through September 15, 2016. For the 2013 tax year, FTB received payments and credits on the account from September 15, 2016, through January 9, 2018. For the 2014 tax year, FTB received payments and credits on the account from January 9, 2018, through September 7, 2022, plus an additional payment of \$95.04 on July 15, 2023.
5. On February 15, 2024, appellant untimely filed his 2012, 2013, and 2014 Returns. FTB accepted the Returns as filed and treated them as claims for refund. FTB denied appellant's 2012 and 2013 claims for refund in their entirety because they were filed outside of the statute of limitations. For the 2014 claim, FTB determined that appellant's claim was timely as to the July 15, 2023 payment, which it credited to appellant's balance for another tax year. FTB denied the remainder of the 2014 claim for refund.
6. 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 Returns pursuant to an extension of time to file. The second four-year statute of limitations period expired on April 15, 2017, April 15, 2018, and April 15, 2019, for the 2012, 2013, and 2014 tax years, respectively, which is four years from the original filing deadline for appellant's Returns. (R&TC, §§ 19306(a), 18566.) Appellant's Returns (treated as appellant's claims for refund) were not filed until February 15, 2024, which is after the expiration of the four-year statute of limitations period. Appellant's claims for refund are, 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. Appellant's latest uncredited payments for 2012, 2013, and 2014 were made on September 15, 2016, January 9, 2018, and September 7, 2022, respectively. The one-year statute of limitations for these payments expired on September 15, 2017, January 9, 2019, and September 7, 2023. Thus, appellant's claims for refund filed on February 15, 2024, are also untimely under the one-year statute of limitations.

On appeal, appellant notes that the payments on his accounts were levied before he had finished filing his taxes and that the amount was ultimately inaccurate. However, the language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Except in very limited situations which are not present here,<sup>2</sup> a taxpayer's untimely filing of a refund claim for any reason bars a refund. (*Ibid.*) This is true even if the tax was not owed in the first place. (*Ibid.*) 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.)

#### HOLDING

Appellant's claims for refund are barred by the statute of limitations.

#### DISPOSITION

FTB's actions denying appellant's claims for refund are sustained.

Signed by:

*Veronica I. Long*

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Veronica I. Long  
Administrative Law Judge

Date Issued: 4/2/2025

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<sup>2</sup> For instance, 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.