

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of:	)	OTA Case No. 240716891
<b>R. CONNELL AND</b>	)	
<b>G. CONNELL (DEC'D)</b>	)	
	)	
	)	

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**OPINION**

Representing the Parties:

For Appellants:	R. Connell
For Respondent:	David C. Cortez, Associate Government Program Analyst
For Office of Tax Appeals:	Oliver Pfof, Attorney

S. HOSEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Connell and G. Connell (Dec'd) (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$11,884 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. In 2018 and 2019, FTB received payments totaling \$13,034 from appellants for the 2018 tax year.
2. In September 2020, FTB issued a Payment Received—No Return on File notice, which stated that FTB had received payments for the 2018 tax year, but it did not have a California income tax return on file from appellants for that year.
3. On August 28, 2023, appellant G. Connell passed away.

4. On May 15, 2024, FTB received appellants' joint 2018 California income tax return (tax return), reporting tax of \$1,150 and an overpayment of \$11,884.
5. FTB treated the tax return as a claim for refund of \$11,884. FTB issued a claim denial notice conveying its determination that the refund claim was barred by the statute of limitations.
6. Appellants timely filed this appeal.

### DISCUSSION

Appellants do not dispute filing their claim for refund after the statute of limitations expired. Rather, appellants seek relief based on reasonable cause. Appellants state that appellant R. Connell was an over-the-road truck driver who was away from home for long durations, while appellant G. Connell handled all the finances, including the income taxes. Appellants state appellant G. Connell became ill in 2017, and with each succeeding year, her health declined and appellant R. Connell became her full time caregiver. Appellants state appellant G. Connell passed away in August 2023, and afterwards their son stepped in and helped appellant R. Connell gather the documents appellants' accountant needed to file the tax return. Appellants state appellant G. Connell was too sick to get all the documents together for the accountant. Appellants request OTA make an exception in their case based on these circumstances.

Absent a statutory exception, a taxpayer's untimely filing of a claim bars a refund. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)<sup>1</sup> There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) 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.) Here, appellants explain the ill health and eventual death of appellant G. Connell prevented their filing a timely claim for refund. Whether characterized as an argument from reasonable cause or an argument from equity to avoid a harsh result, there is no reasonable cause or equitable basis to suspend the statute of limitations. (*Appeal of Benemi Partners, L.P.*, *supra.*) Appellants request that OTA make an exception in their case. Although sympathetic to appellants' circumstances, OTA can only grant

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<sup>1</sup> Financial disability due to a medically determinable physical or mental impairment is an example of a statutory exception that may suspend the general statute of limitations period for refund claims. (R&TC, § 19316.) An individual taxpayer is not considered financially disabled for any period during which that individual's spouse or any other person is legally authorized to act on the individual's behalf. (*Ibid.*)


relief where the law specifically allows, and California law prohibits OTA from making exceptions on a reasonable cause or equitable basis.

HOLDING

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

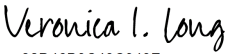
DISPOSITION

FTB's action is sustained.

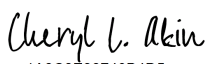
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Sara A. Hosey  
Administrative Law Judge

We concur:

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Veronica I. Long  
Administrative Law Judge

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Cheryl L. Akin  
Administrative Law Judge

Date Issued: 4/1/2025