

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 R. Heredia's income.
3. In response to the NPA, appellant R. Heredia submitted a Quick Resolution Worksheet to FTB, requesting an additional 30 days to file a California income tax return, and waiving his protest rights. FTB did not receive a California income tax return within the specified additional time, and the NPA went final, meaning due and payable.
4. On January 13, 2022, FTB received a \$5,865.82 payment from appellant R. Heredia. With this payment, appellant R. Heredia's balance for the 2018 tax year was paid in full.
5. On February 15, 2024, FTB received a joint 2018 California resident income tax return (tax return) from appellants reporting \$0 total tax and a refundable Earned Income Tax Credit of \$86. FTB accepted the tax return as filed.
6. FTB treated the tax return as a claim for refund of \$5,959.06, which it denied for being filed after the statute of limitations had expired. The amount of the refund includes the \$5,865.82 payment received on January 13, 2022, and an Earned Income Tax Credit of \$86 reported on the tax return.
7. FTB issued a claim denial letter, from which appellants filed this timely 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.) Overpayments from refundable tax credits, such as the Earned Income Tax Credit, are deemed paid on the original due date of the return without regard to any extension to file. (*Appeal of Sotelo*, 2025-OTA-035P.) Here, appellants filed the tax return and claim for refund on February 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 date of the \$5,865.82 payment, January 13, 2022, and the date the Earned Income Tax Credit is deemed paid, April 15, 2019. Appellants' claim for refund is therefore barred by the statute of limitations.

Appellants request the refund be granted for reasonable cause, stating they could not file a tax return before the statute of limitations expired because of problems with their CPA.

Appellants also state appellant R. Heredia is in his 80s and has a hard time understanding tax forms because of vision problems.

California law provides that, absent a statutory exception, the untimely filing of a claim for any reason bars a refund. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) 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.) 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.

DocuSigned by:
Sara A. Hosey
6D3FE4A0CA514E7...

Sara A. Hosey
Administrative Law Judge

We concur:
Signed by:
Veronica I. Long
32D46B0C49C949F...

Veronica I. Long
Administrative Law Judge

DocuSigned by:
Cheryl L. Akin
1A8C8E38740B4D5...

Cheryl L. Akin
Administrative Law Judge

Date Issued: 4/9/2025