

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)	OTA Case No. 240917339
R. ZELAZNY AND)	
E. ZELAZNY)	
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)	

OPINION

Representing the Parties:

For Appellants:	R. Zelazny E. Zelazny
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For Respondent:	Noel Garcia-Rosenblum, Attorney
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T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Zelazny and E. Zelazny (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$2,895.02 for the 2019 taxable year.

Appellants 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).) 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

Is appellants' claim for refund barred by the statute of limitations?

FACTUAL FINDINGS

1. On March 15, 2020, appellants filed a timely 2019 California Resident Income Tax Return (Form 540). As relevant here, appellants reported social security income of \$31,138 as income taxable by California, total tax of \$11,849, withholdings of \$14,749, and an overpayment of \$2,900.
2. On May 28, 2020, FTB refunded appellants \$2,907.14, which included the claimed overpayment, plus allowed interest.

3. Appellants filed an amended Form 540 on May 15, 2024, which subtracted the social security income of \$31,138 from California taxable income and reported an overpayment of \$5,795.¹
4. FTB accepted appellants' amended Form 540 as a claim for refund, which it denied due to the expiration of the statute of limitations.
5. Appellants filed this timely appeal.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. 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 pursuant to R&TC section 18567 or 18604, whichever is applicable; (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. For purposes of R&TC section 19306, amounts withheld are deemed to be paid on the original return due date. (R&TC, § 19002(d)(1).) The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Cornbleth*, 2019-OTA-408P.) Absent a statutory exception, a taxpayer's 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. (*Appeal of Benemi Partners, LP, supra.*) Moreover, fixed deadlines may appear harsh because they can be missed; however, the resulting occasional harshness is redeemed by the clarity imparted. (*Ibid.*) The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (Cal. Code Regs., tit. 18, § 30219(a); *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Here, appellants' original 2019 Form 540 was timely filed, and as such, FTB refunded appellants the originally claimed overpayment of \$2,900, plus interest. However, appellants' 2019 amended Form 540, which was filed on May 15, 2024, is treated as appellants' claim for refund. The applicable four-year statute of limitations period for appellants' 2019 refund claim expired on April 15, 2024, which is four years from the original due date (and deemed filing date) of the return, April 15, 2020. (R&TC, §§ 19036(a), 18566.)

¹ FTB denied appellants' claim for refund in the amount of \$2,895, which is the overpayment of \$5,795 reported on the amended Form 540, minus the \$2,900 previously refunded to appellants (\$5,795 - \$2,900 = \$2,895).

Under the one-year statute of limitations period, appellants were required to file a refund claim for withholdings no later than April 15, 2021, which is one year from April 15, 2020, the date appellants' withholdings for the 2019 taxable year were deemed paid. (R&TC, §§ 19306(a); 19002(c)(1).) Therefore, the statute of limitations expired on April 15, 2024, and appellants may not receive a refund of their overpayment unless a statutory exception applies.²

On appeal, appellants note that the deadline for filing and paying 2019 taxes was "extended" due to the COVID-19 pandemic, and assert they should have four years from the "extended" due date for filing and paying 2019 taxes to file their claim for refund.³ Appellants note that had they filed their original 2019 Form 540 on or after May 15, 2020, and on or before July 15, 2020, the first four-year statute of limitations period would have been calculated from the date their return was timely filed, making their claim for refund timely. However, the COVID-19 postponement does not alter the original due date for the return. (*Appeal of Bannon*, 2023-OTA-096P.) Appellants filed their original return on March 15, 2020, and the four-year statute of limitations expired four years from the original due (and deemed filing) date, on April 15, 2024. The outcome here is not changed by the fact that appellants would have had additional time to file their claim for refund under the four-year statute of limitations had they filed their 2019 Form 540 during the six-month automatic extension period pursuant to R&TC section 19604. While this may seem unfair, the statutory language is clear, and the statute must be strictly construed. (*Appeal of Cornbleth*, *supra*.) OTA may not, therefore, interpret the statute to mean what appellants believed it to mean in order to avoid a seeming unfair or harsh result. (*Appeal of Estate of Gillespie*, *supra*.) As such, appellants' claim for refund is barred by the statute of limitations.

² The statute of limitations may be suspended where taxpayers establish financial disability, which applies when a 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. (R&TC, § 19316(a), (b)(1).) An individual is not considered financially disabled for any period during which that individual's spouse or any other person is legally authorized to act on that individual's behalf in financial matters. (R&TC, § 19316(b)(2).) This statutory exception does not apply to appellants.

³ For taxable year 2019, FTB postponed the deadline to file and pay taxes to July 15, 2020, due to the COVID-19 pandemic. (See: <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-3-state-postpones-tax-deadlines-until-july-15-due-to-the-covid-19-pandemic.html>.)

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

OTA sustains FTB's denial of appellants' claim for refund.

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