

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:) OTA Case No. 240716892
T. BARNES AND)
S. BARNES)
_____)

OPINION

Representing the Parties:

For Appellants: T. Barnes
S. Barnes

For Respondent: AnaMarija Antic-Jezildzic, Specialist

For Office of Tax Appeals: Oliver Pfof, Attorney

C. AKIN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, T. Barnes and S. Barnes (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$2,973 for the 2019 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 2019 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. On February 6, 2024, FTB issued a Nonwage Withholding Credits—No Tax Return on File notice (notice) to appellant S. Barnes. The notice stated that FTB's records indicated appellant S. Barnes may be entitled to nonwage withholding credits in the amount of \$2,973.45 for the 2019 tax year, but FTB had no California income tax return on file for appellant S. Barnes for that tax year. The notice requested that appellant S. Barnes provide a copy of the 2019 return if one had already been filed with FTB or file a 2019 return with FTB if one had not already been filed to claim the nonwage

withholding credits. The notice further noted a refund of the withholding credits could not be issued unless a California state income tax return for the 2019 tax year was received before the statute of limitations expired.

2. Appellants mailed a joint California state income tax return (tax return) to FTB on April 29, 2024, which FTB received on May 2, 2024. The tax return reported a refund due of \$2,973.
3. FTB treated the tax return as a claim for refund and issued a notice denying the refund claim for having been filed after the statute of limitations expired.
4. Appellants timely filed this 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; (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 15 following the close of the calendar year. (R&TC, § 18566.)

Appellants do not dispute that their tax return and claim for refund was filed after the statute of limitations expired on April 15, 2024.¹ However, appellants contend FTB did not provide them with sufficient time to prepare the tax return, which required special, California nonresident forms to be prepared by their accountant. Appellants argue they are entitled, at a minimum, to a partial refund because of the negligent and untimely manner in which they were notified by FTB of the overpayment.

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Absent a statutory exception, a taxpayer's untimely filing of a claim for any reason bars a refund. (*Ibid.*) This is true even if it is later shown that the tax was not owed in the first place. (*Ibid.*) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) Additionally, FTB has no legal duty to discover or provide notice of a taxpayer's overpayment of income tax. (*Appeal of Cervantes* (74-SBE-029) 1974 WL 2844.) Neither does the law require FTB to notify taxpayers of the time in which to file a refund claim. (*Appeal of Shagets* (82-SBE-170) 1982 WL 11847.)

¹ For purposes of R&TC section 19306, tax withholdings are deemed paid on the original due date of the return. (R&TC, § 19002(c).) Here, the amounts withheld are deemed paid on April 15, 2020, and the one-year statute of limitations expired on April 15, 2021.

Although not required by law, FTB discovered and provided notice to appellants of withholding credits of \$2,973.45 on record for appellants' 2019 tax year. In the notice, FTB stated it must receive a claim for refund before the statute of limitations expired. It is immaterial that FTB did not issue its notice sooner because it was not under a legal obligation to make the discovery or provide notice of the overpayment. Ultimately, appellants filed their tax return and claim for refund after the statute of limitations expired and their claim for refund is therefore time-barred.

HOLDING

Appellants' claim for refund for the 2019 tax year is barred by the statute of limitations.

DISPOSITION

FTB's action is sustained.

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

Cheryl L. Akin
Administrative Law Judge

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

Sara A. Hosey
Administrative Law Judge

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

Veronica I. Long
Administrative Law Judge

Date Issued: 4/2/2025