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BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF, )  
 )  
D. TEMPLETON, ) OTA NO. 241017647  
 )  
 )  
 APPELLANT. )  
 )  
 \_\_\_\_\_ )

Transcript of Electronic Proceedings,  
taken in the State of California, commencing  
at 9:40 a.m. and concluding at 9:55 a.m. on  
Tuesday, July 15, 2025, reported by  
Ernalyn M. Alonzo, Hearing Reporter, in and  
for the State of California.

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APPEARANCES:

Administrative Law Judge:       SHERIENE ANNE RIDENOUR

For the Appellant:               D. TEMPLETON  
  ROBIN L. JACKSON

For the Respondent:               STATE OF CALIFORNIA  
  FRANCHISE TAX BOARD  
  
  LEOANGELO CRISTOBAL  
  ALISA PINARBASI

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-6 were received via the Minutes and Orders.)

(Appellant's Exhibits 7 & 8 were received into evidence at page 6.)

(Department's Exhibits A & B were received via the Minutes and Orders.)

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California; Tuesday, July 15, 2025

9:40 a.m.

JUDGE RIDENOUR: We are now opening the record in the Office of Tax Appeals oral hearing for the Appeal of David Templeton, OTA Case No. 241017647. Today's date is July 15th, 2025, and the time is 9:40 a.m.

The hearing is being conducted virtually with the agreement of the parties. This appeal is being and decided by a single Administrative Law Judge under OTA's Small Case Program. My name is Sheriene Ridenour, and I'll be conducting the hearing, reviewing the evidence, and reaching a determination in this appeal.

For the record, will the parties please state your names and who you represent, starting with the representatives for Appellant.

MS. JACKSON: Robin La Brie Jackson for David Templeton.

JUDGE RIDENOUR: Mr. Templeton, can you please introduce yourself.

MR. TEMPLETON: I am David Templeton.

JUDGE RIDENOUR: Thank you.

And for FTB.

MR. CRISTOBAL: Good morning. Leo Cristobal representing Franchise Tax Board.

1 MS. PINARBASI: Good morning. Alisa Pinarbasi  
2 also representing the Franchise Tax Board.

3 JUDGE RIDENOUR: Great. Thank you, everybody.

4 As stated in my Minutes and Orders dated  
5 June 12th, 2025, there's one issue in this appeal:  
6 Whether Appellant's claim for refund for the 2019 tax year  
7 is barred by the statute of limitations.

8 The exhibits are listed in the exhibit log, which  
9 has been distributed to the parties. During the  
10 prehearing conference, FTB raised no objections to  
11 Appellant's Exhibits 1 through 6, and they were admitted  
12 into evidence. Since the prehearing conference, Appellant  
13 has submitted Exhibits 7 and 8.

14 FTB, do you have any objection to Appellant's  
15 Exhibits 7 and 8?

16 MR. CRISTOBAL: No, we do not.

17 JUDGE RIDENOUR: Appellant's 7 and 8 are also  
18 hereby admitted into evidence.

19 (Appellant's Exhibits 7 & 8 were received into  
20 evidence by the Administrative Law Judge.)

21 JUDGE RIDENOUR: During the prehearing  
22 conference, Appellant raised no objections to FTB's  
23 Exhibits A and B, and they were admitted into evidence.

24 As for witnesses, FTB previously indicated it  
25 will not call any witnesses. Appellant indicated he will

1 be testifying today, and FTB raised no objection. As  
2 such, Mr. Templeton will be sworn in today before  
3 Appellant's presentation, and there are no other witnesses  
4 today.

5 As a reminder to the parties, during the  
6 prehearing conference, we decided that Appellant will have  
7 10 minutes to make his presentation, followed by FTB, who  
8 will have 10 minutes as well. Then Appellant will have  
9 5 minutes to provide closing arguments, if he so choose.  
10 Each party is encouraged to monitor their own time.

11 Does anyone have any questions before we move  
12 onto presentations?

13 Ms. Jackson?

14 MS. JACKSON: No.

15 JUDGE RIDENOUR: Mr. Cristobal?

16 MR. CRISTOBAL: No.

17 JUDGE RIDENOUR: Okay. Thank you.

18 Before we proceed, Mr. Templeton, I need to place  
19 you under oath so that your statements can be considered  
20 as testimony, and you will remain under oath until the  
21 close of this hearing.

22 Will you please raise your right hand.

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D. TEMPLETON,

produced as a witness, and having been first duly sworn by the Administrative Law Judge, was examined, and testified as follows:

JUDGE RIDENOUR: Okay. Thank you very much.

The time is currently 9:43, and when you're ready, Ms. Jackson, please begin your presentation.

PRESENTATION

MS. JACKSON: On behalf of David Templeton, I think there are a few issues that were involved in the timeline to submit the amended return and the request for refund. Mr. Templeton was not notified until 2022 that there was even an issue with the tax year -- I mean with the tax return, and that notification came from the IRS letting him know that there -- there was the qualified business income deduction was not allowed because schedule Cs were missing from his tax return. As a lay person he didn't quite understand why -- what was missing and why.

He tried to get ahold of the tax preparer who -- during COVID year. So the 2019 tax return was to be filed in 2020, of which it ended up being filed late by the tax preparer even though he entered into an agreement prior or before the deadline. The tax preparer didn't prepare it

1       until later, obviously, due to COVID. Because of COVID  
2       she retired. During this time, Mr. Templeton was going  
3       through a contemptuous divorce and a move because of that  
4       divorce, and didn't have paperwork, couldn't find  
5       paperwork, and was dealing with a spouse who wasn't  
6       cooperative. And it took him time to gather the  
7       information to figure what exactly the problem was.

8               The tax preparer that took over from his preparer  
9       did not have any records and was not given any records.  
10       That tax preparer was Knutson Curry and Associates. That  
11       is Exhibit 4, his engagement letter with that tax preparer  
12       who no longer was in business. When Mr. Templeton was  
13       notified that there was a problem with the return, that is  
14       when he started his process of trying to gather the  
15       correct information working with the -- get the prior tax  
16       returns replacement and the uncooperative ex. When he  
17       found me in 2024 and was gathering all of his information,  
18       we had difficulty as well trying to understand what the  
19       prior tax preparer had even done. Therefore, the  
20       timeliness of being able to submit anything was out of his  
21       control and was not his intent to be untimely, it was not  
22       something that -- or something that we do feel was  
23       reasonable cause for the delay.

24               As Exhibit 5, the notice from the IRS, came on  
25       February 14th of '22, and that is when it specially -- or

1 that Mr. Templeton was specifically notified that the  
2 Form 8995 was being disallowed because of the lack of  
3 information, meaning the schedule C; but he didn't know  
4 what that was until we started working together.  
5 Therefore, we feel that the refund should be allowed, and  
6 penalties removed for untimely filing.

7 Thank you.

8 JUDGE RIDENOUR: Thank you.

9 Mr. Templeton, did you want to say anything as a  
10 witness?

11 MR. TEMPLETON: Not at this time.

12 JUDGE RIDENOUR: Okay. Thank you.

13 I do not have any questions at this time.

14 FTB, the time is 9:48 and when you're ready,  
15 Mr. Cristobal, please begin your presentation.

16 MR. CRISTOBAL: Okay. Thank you, Judge.

17

18 PRESENTATION

19 MR. CRISTOBAL: Good morning. Like I mentioned,  
20 my name is Leo Cristobal, and I represent Respondent  
21 Franchise Tax Board.

22 This appeal for tax year 2019. And as mentioned,  
23 the issue in this case is whether Appellant's claim for  
24 refund is barred by the statute of limitations. 2019 tax  
25 returns were due on April 15, 2020. Appellant did not

1 file a 2019 tax return until December 16, 2020.  
2 Consequently, as it relates to the statute of limitations,  
3 the last day for Appellant to file a timely refund claim  
4 under the four-year statute of limitations was four years  
5 from the original due date. In other words, the last day  
6 for Appellant to file a timely claim for refund was  
7 April 15, 2024.

8 Here, Appellant did not file his claim for refund  
9 by the State. Accordingly, Respondent denied the refund  
10 claim. Appellant has presented various extenuating  
11 circumstances and reasonable cause arguments as an  
12 explanation for why his claim for refund was received  
13 after the expiration of the statute of limitations.  
14 Unfortunately, refunds can only be granted to taxpayers as  
15 permitted by the statute of limitations, and the explicit  
16 and strict language of the statute of limitations provides  
17 that there is no waiver of the statutory period based on  
18 reasonable cause. The fixed deadline may appear harsh,  
19 but it is understood that the clarity that is provided by  
20 the statute of limitations promotes fairness and  
21 practicality in the overall administration of income tax  
22 policy.

23 So here, notwithstanding, you, know, any delay by  
24 the IRS, a former tax preparer, or the COVID-19 pandemic,  
25 Appellant's claim for refund was not received by

1 April 15, 2024. Therefore, Appellant's claim was  
2 untimely. And under California law, Respondent properly  
3 denied the claim based on the claim being barred by the  
4 statute of limitations.

5 In conclusion, because Appellant did not file a  
6 claim for refund on or before the last day prescribed by  
7 statute of limitations, the claim is time-barred, and  
8 FTB's action denying Appellant's refund claim should be  
9 sustained.

10 Thank you, and I'm happy to answer any questions  
11 you may have.

12 JUDGE RIDENOUR: Thank you. Mr. Cristobal, by  
13 reading the briefing, I think there may be some  
14 misunderstanding regarding the COVID extension to  
15 July 15th, 2020, and that impact, if any, on the four-year  
16 claim for refund deadline. Could you please expand on  
17 that, please?

18 MR. CRISTOBAL: Yes, Judge. So per -- is it all  
19 right if I mention statutes or any prior cases in this  
20 moment? I know I didn't submit --

21 JUDGE RIDENOUR: Yes, you were not anticipating  
22 this question. Please proceed. That's fine.

23 MR. CRISTOBAL: Yes. So according to federal and  
24 state laws and regulations regarding postponements and the  
25 effect of postponements on due dates, the long -- the --

1 the short of it is that postponements due to disasters,  
2 like COVID-19, don't affect the original due dates of tax  
3 returns. And so, as it relates to the interplay here, the  
4 original due date of a 2019 tax return was  
5 April 15th, 2020. And even with the COVID postponement,  
6 it didn't change the original due date.

7 And the law is clear, and there has been an OTA  
8 precedential case that has addressed this exact issue.  
9 It's the Case of Nguyen. It was decided in March of this  
10 year where the OTA did -- did make it clear that the  
11 postponement -- the COVID postponement did not change the  
12 original due date of a 2019 tax return.

13 JUDGE RIDENOUR: Thank you very much clarifying  
14 on the record. I appreciate that, Mr. Cristobal.

15 Ms. Jackson you may make a response to FTB's  
16 arguments or further address any questions.

17 Or, Mr. Templeton, you can make your witness  
18 testimony, but neither is required.

19 Would you like to make closing remarks,  
20 Ms. Jackson.

21

22 CLOSING STATEMENT

23 MS. JACKSON: I think that the FTB just answered  
24 the question that I had, which is the COVID extension  
25 would have extended the filing period, but it seems like

1 the court precedence did not change that date.

2 JUDGE RIDENOUR: Hence, the reason why I asked it  
3 for the clarification on the record. Is there anything  
4 else you would like to say in closing?

5 Or, Mr. Templeton, would you like a chance to  
6 speak?

7 MR. TEMPLETON: Robin, did you have anything  
8 else?

9 MS. JACKSON: No, I didn't. I didn't have  
10 anything else. The extenuating circumstances I felt were  
11 valid, but it does seem like the FTB -- statute of  
12 limitations did not change even because COVID.

13 JUDGE RIDENOUR: Mr. Templeton, I'll ask you, did  
14 you want to speak or say anything?

15 MR. TEMPLETON: I -- I'd -- not really. I mean,  
16 I would say what's important here. And, you know, I'm a  
17 law-abiding tax-paying citizen. Those three or four years  
18 during COVID were difficult, and I understand that the law  
19 is the law. And I just hope that there's some, you know,  
20 ability of this group to see that. And, you know, I mean,  
21 I have -- I have a claim with the State. I have a much  
22 larger claim with the IRS, and I hope that, you know,  
23 it -- it's fulfilled. So that's all.

24 JUDGE RIDENOUR: Thank you very much for your  
25 testimony.

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And, FTB, did you have any questions for Mr. Templeton as a witness?

MR. CRISTOBAL: No, we do not.

JUDGE RIDENOUR: Okay. Thank you.

I want to thank everybody for participating in today's hearing. I am now concluding the hearing.

The record is now closed, and I will issue a written opinion of OTA's decision within 100 days from today. Today's hearing in the Appeal of David Templeton is now closed, and we are off the record.

(Proceedings concluded at 9:55 a.m.)

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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for the State of California, do hereby certify:

That the foregoing transcript of proceedings was taken before me at the time and place set forth, that the testimony and proceedings were reported stenographically by me and later transcribed by computer-aided transcription under my direction and supervision, that the foregoing is a true record of the testimony and proceedings taken at that time.

I further certify that I am in no way interested in the outcome of said action.

I have hereunto subscribed my name this 23rd day of July, 2025.

\_\_\_\_\_  
ERNALYN M. ALONZO  
HEARING REPORTER