

- NPA proposed a tax liability of \$6,686, a late filing penalty of \$1,671.50, and applicable interest. Appellant did not respond and the NPA became final.
4. On June 14, 2022, FTB collected payments totaling \$2,398.60.
 5. On December 13, 2024, appellant filed a 2019 tax return reporting zero tax. FTB treated the return as a claim for refund. After relieving the late filing penalty, appellant's account reflected an overpayment of \$2,072.60.¹
 6. On December 30, 2024, FTB denied appellant's claim for refund based on the expiration of the statute of limitations for filing a claim for refund.
 7. This timely appeal followed.

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 shall be allowed or made 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 pursuant to an extension of time to file; (2) four years from the due date for filing a return for the year at issue (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. (R&TC, §19306(a).) Taxpayers have the burden of proving that claims for refund are timely and that they are entitled to a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

The language of the statute of limitations must be strictly construed, and there is no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) A taxpayer's failure to file a claim for refund within the statute of limitations, for any reason, bars the taxpayer from later claiming a refund. (*Ibid.*)

If a tax return or claim for credit or refund required by law to be filed with the state or state agency on or before a specified date is filed with a state agency through the United States mail or through a bona fide commercial delivery service, as determined by the state or the state agency address, properly addressed with postage prepaid, it shall be deemed filed on the date shown by the cancellation mark stamp on the envelope. (Gov. Code, § 11003; R&TC, § 21027.) Taxpayers attempting to prove that a paper return was timely mailed would have to show evidence, such as a registered or certified mail receipt, that the return was timely mailed. (*Appeal of Fisher*, 2022-OTA-337P; Cal. Code Regs., tit. 18, § 30219(a).)

¹ The difference between appellant's payments of \$2,398.60 and the account balance of \$2,072.60 is the result of charges incurred due to a collection cost recovery fee of \$316 and a collections lien fee of \$10.

On appeal, appellant appears to assert that he filed a timely claim for refund. Appellant contends that he filed his 2019 tax return during 2020 (which would be timely for statute of limitations purposes). However, appellant contends that his mail was stolen and the return went undelivered. Appellant also argues that he was forced to move and didn't receive certain notifications and was unaware that FTB did not receive his tax return. However, appellant has not provided any evidence, such as a certified mail receipt, to show that he attempted to file a timely 2019 tax return by mail. Accordingly, OTA cannot conclude that appellant filed a 2019 tax return prior to December 13, 2024 (the date that FTB recorded appellant's return as received).

Because appellant failed to file a 2019 tax return by the due date of July 15, 2020,² the four-year statute of limitations to file a claim for refund began to run on the return's original due date and expired four years later on April 15, 2024. (R&TC, § 19306(a).) Appellant filed his claim for refund on December 13, 2024. Thus, under R&TC section 19306(a), the four-year statute of limitations expired prior to appellant filing the claim for refund.

The alternative one-year statute of limitations applies only to payments made within one year of the date the claim for refund is filed. (R&TC, § 19306(a).)³ Here, appellant's payments were collected on June 14, 2022. Appellant filed a claim for refund on December 13, 2024, which is more than one year after the date of any payment. Accordingly, the one-year statute of limitations expired for each payment before appellant filed his claim for refund.

To the extent that appellant asserts that his claim for refund should be granted because FTB mailed notices to the wrong address, except in very limited situations which are not present here,⁴ a taxpayer's untimely filing of a refund claim for *any reason* bars a refund. (*Appeal of Benemi Partners, supra.*) This is true even if the tax was not owed in the first place or was erroneously, illegally, or wrongfully collected. (*Ibid.*) "Although the result of fixed deadlines may

² For the 2019 tax year, in response to the COVID-19 pandemic, FTB postponed the filing due date to July 15, 2020. (See *Appeal of Bannon*, 2023-OTA-096P; see also <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>.)

³ For purposes of R&TC section 19306, withholding credits are treated as paid on the last day prescribed for filing the return. (R&TC, § 19002(c)(1).) Appellant's payments for the 2019 tax year did not include any withholding credits.

⁴ For instance, R&TC section 19316 suspends the running of the statute of limitations during any period where the 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.


appear harsh, the occasional harshness is redeemed by the clarity imparted.” (*Ibid.*)
Accordingly, appellant’s claim for refund is barred by the statute of limitations.

HOLDING

Appellant’s claim for refund is barred by the statute of limitations.

DISPOSITION

FTB’s action is sustained.

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Keith T. Long
Administrative Law Judge

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