

In the Matter of the Appeal of:) OTA Case No. 240716720
S. LEE AND)
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¹ Respondent's internal account for appellants reports "WH AT SRC" of \$10,473 with an effective date of April 15, 2020. (R&TC, § 19002(c)(1).)

- respond in a timely manner, respondent may not be able to allow a refund of the withholdings.
3. On May 7, 2024, appellants filed a 2019 Form 540NR California Nonresident or Part-Year Resident Income Tax Return, reporting total tax of \$0, withholdings of \$10,473, an overpayment of \$10,473, and a claim for refund of \$10,473.
 4. On June 10, 2024, respondent sent appellants a Statute of Limitations Letter denying appellants' claim for refund due to the expiration of the statute of limitations.
 5. This timely appeal followed.

DISCUSSION

R&TC section 19306 imposes a statute of limitations to file a claim for refund. R&TC section 19306(a) provides, in part, that no credit or refund shall 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 prescribed for filing the return (determined without regard to any extension of time for filing the return); or (3) one year from the date of the overpayment. The taxpayer has the burden of proof showing entitlement to a refund and that the claim for refund is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*Appeal of Cornbleth*, 2019-OTA-408P.) A taxpayer's failure to file a claim for refund, for whatever reason, within the statutory period bars the taxpayer from doing so later, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) While fixed deadlines may appear harsh because they can be missed, the resulting occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Appellants did not timely file a tax return for the 2019 tax year. Therefore, the first four-year period does not apply. The second statute of limitations period required appellants to file a claim for refund within four years of the due date of the 2019 return, which was April 15, 2024. (R&TC, §§ 18566, 19036.) Appellants filed the 2019 Form 540NR return to report a claim for refund on May 7, 2024. Thus, appellants' claim for refund is barred under the four-year statute of limitations. Under the third statute of limitations period, respondent received withholdings for the 2019 tax year of \$10,473, which are treated as payments made on the original due date of the 2019 return, or April 15, 2020. (R&TC, §§ 19002(c)(1), 18566.) As a

result, the one-year statute of limitations expired on April 15, 2021, prior to appellants filing their claim.

Appellants argue that respondent did not inform appellants of the nonwage withholdings until after the expiration of the statute of limitations. However, the record in this case demonstrates that respondent sent appellants the Withholding Letter informing appellants of the withholdings and the statute of limitations on February 21, 2024, which is prior to the expiration of the April 15, 2024 statute of limitations. Additionally, FTB has no duty to discover overpayments made by a taxpayer. (*Appeal of Cervantes* (74-SBE-029) 1974 WL 2844) or inform a taxpayer of the time within which a claim for refund must be filed to avoid the expiration of the statute of limitations. (*Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856.) Respondent was not legally obligated to send appellant S. Lee the Withholding Letter and sent the letter as a courtesy only.

As stated above, a taxpayer's failure to file a claim for refund, for whatever reason, within the statutory period bars the taxpayer from doing so later, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Benemi Partners, supra.*) For the foregoing reasons, appellants' claim for refund is barred by the statute of limitations.

HOLDING

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

DISPOSITION

Respondent's action denying appellants' claim for refund is sustained.

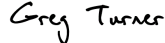
We concur:

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Erica Parker
Hearing Officer

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Seth Elsom
Hearing Officer

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Greg Turner
Administrative Law Judge

Date Issued: 6/19/2025