

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 240716908
T. NGUYEN	)	
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OPINION

Representing the Parties:

For Appellant:	T. Nguyen
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For Respondent:	AnaMarija Antic-Jezildzic, Specialist
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For Office of Tax Appeals:	Amber Poon, Attorney
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S. HOSEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, T. Nguyen (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of \$2,487 for the 2019 tax year.

Appellant 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 appellant's refund claim for the 2019 tax year is timely.

FACTUAL FINDINGS

1. On May 9, 2024, appellant filed an untimely 2019 California income tax return. Appellant reported withholding credits in excess of appellant's total tax liability and claimed a refund of \$2,487.
2. Respondent treated the 2019 return as a claim for refund but did not credit or refund appellant's overpayment, because respondent determined that the 2019 return was filed outside the statute of limitations period for making a refund claim.
3. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides 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 last date prescribed 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. For purposes of R&TC section 19306, amounts withheld are deemed paid on the original return due date. (R&TC, § 19002(c)(1).) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

Here, appellant filed an untimely 2019 return on May 9, 2024. Therefore, the four-year statute of limitations expired on April 15, 2024, four years from the original due date of the tax return on April 15, 2020. Since withholding credits are deemed to be paid on the original due date of the return, the one-year statute of limitations expired on April 15, 2021. As such, the later of the four-year or one-year statute of limitations was April 15, 2024. Since appellant filed the claim for refund on May 9, 2024, the claim for refund is barred by the statute of limitations.

Appellant asserts that the claim for refund was filed within the four-year statute of limitations based on the COVID-19 state of emergency postponement respondent provided to taxpayers in 2020 that postponed the filing and payment deadlines for individuals until July 15, 2020. In other words, since the due date for the 2019 return was postponed until July 15, 2020, appellant asserts that the four-year statute of limitations should have expired on July 15, 2024.¹

As explained above, the statute of limitations expired on April 15, 2024, four years from the original due date of appellant's 2019 return. (R&TC, § 19036(a).) Respondent's authority to grant state of emergency postponements for tax-related acts is pursuant to R&TC section 18572(b), which adopts Internal Revenue Code (IRC) section 7508A. (*Appeal of Bannon*, 2023-OTA-096P.) When applying the IRC for purposes of California personal income tax, IRS Treasury Regulations shall be applicable to the extent that they do not conflict with California personal income tax code sections or regulations. (R&TC, § 17024.5.) Treasury Regulation section 301.7508A-1(b)(4) provides that "[t]o the extent that other statutes may rely on the date a return is due to be filed, the postponement period will not change the due date of the return." Thus, respondent's postponement of the due date to July 15, 2020, did not

¹ See www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-5-april-15-tax-day-postponed-until-july-15-2020.html.

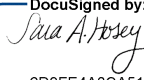
change the original due date of April 15, 2020, upon which the four-year statute of limitations for refund claims is based. Because appellant filed the claim for refund on May 9, 2024, outside the statute of limitations period, this claim for refund is time-barred.

HOLDING

Appellant's refund claim for the 2019 tax year is untimely.

DISPOSITION

Respondent's action is sustained.

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Sara A. Hosey
Administrative Law Judge

We concur:

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Veronica I. Long
Administrative Law Judge

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Cheryl L. Akin
Administrative Law Judge

Date Issued: 3/25/2025