

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 250218804
J. BANASZKIEWICZ AND	)	
K. BANASZKIEWICZ	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellants:	K. Banasziewicz J. Banasziewicz
For Respondent:	Rosemary Villasenor, Senior Legal Analyst

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Banasziewicz and K. Banasziewicz (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$3,320.43 for the 2018 taxable year.

Appellants elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05(b).) 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

Is appellants' claim for refund of \$3,320.43 barred by the statute of limitations?

FACTUAL FINDINGS

1. FTB obtained information that appellants earned income in 2018 and issued Requests for Tax Returns (Requests) to each appellant. Appellants did not respond to the Requests or file a tax return.
2. FTB issued Notices of Proposed Assessment (NPAs) to each appellant. Appellants did not protest the NPAs, which became final with the tax due and payable.

3. FTB subsequently took collection actions. Between October 11, 2021, and October 4, 2023, FTB received payments totaling \$3,690.43, including a balance transfer from appellants' 2021 taxable year. FTB transferred \$242.57 from appellants' 2022 taxable year to the 2018 account on October 19, 2023. FTB received a final payment of \$295 on November 6, 2023.
4. Appellants filed their 2018 California Resident Income Tax Return late on October 15, 2024. Appellants reported \$0 total tax after application of exemption credits.
5. FTB accepted appellants' return as filed and treated it as a claim for refund.
6. FTB determined that appellants overpaid by \$3,858¹ but \$3,320.43 was barred by the statute of limitations. The remaining overpayment of \$537.57 was not barred by the statute of limitations.
7. FTB reduced appellants' refund of \$537.57 by \$247, which it remitted to the DMV for a debt appellants owed to that agency.
8. FTB issued a refund of \$290.57 to appellants and denied the remainder of appellants' claim for refund.
9. This timely appeal followed.

DISCUSSION

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 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).) The taxpayer has the burden of proof to show entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Except for certain statutory exceptions which are not applicable here, if a taxpayer fails to file a claim for refund within the statute of limitations, the claim is barred even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*)

Appellants failed to file their 2018 return by October 15, 2019, the extended due date for the return. (R&TC, § 18567(a)(1); Cal. Code Regs., tit. 18, § 18567(a).) Therefore, the first four-year statute of limitations period is inapplicable. The second four-year statute of limitations

¹ The overpayment amount is reduced by various collection fees totaling \$370, from \$4,228 to \$3,858.

period runs from the original due date of appellants' 2018 return, and thus expired on April 15, 2023, which is four years from the original due date of the return on April 15, 2019. (R&TC, §§ 19306(a), 18566.) Appellants, however, filed their return for the 2018 taxable year on October 15, 2024, which is beyond the second four-year statute of limitations period prescribed in R&TC section 19306(a).

With regard to the one-year statute of limitations, appellants are entitled to a refund of amounts paid on or after October 15, 2023, one year prior to the date their return (treated as their claim for refund) was filed. Appellants made payments totaling \$3,690.43 between October 11, 2021, and October 4, 2023. These payments were made more than a year prior to appellants' claim for refund filed on October 15, 2024, and are barred by the one-year statute of limitations. Appellants' payment of \$295 on November 6, 2023, and the transfer from appellants' 2022 account of \$242.57 to the 2018 account were made within one year of the claim for refund filing date. The DMV requested that FTB intercept appellants' refund in the amount of \$247 due to a debt owed to that agency. Therefore, FTB properly refunded \$290.57 to appellants for the remainder of the overpayment that was not barred by the statute of limitations.

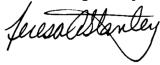
Appellants do not deny that they filed their 2018 return late. Rather, appellants assert that they were never given a timeline to file their tax return. Appellants contend that they filed the return once they got all the documentation together and that they are entitled to the money. With respect to their claim that appellants were unaware of filing timelines, OTA notes that FTB has no duty to discover taxpayers' overpayments or to notify them of the time within which a claim for refund must be filed. (*Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856; *Appeal of Cervantes* (74-SBE-029) 1974 WL 2844.) Moreover, nothing in R&TC section 19306 allows a claim for refund based on taxpayers' lack of knowledge of statutory deadlines. As noted above, neither reasonable cause nor equitable circumstances allow a refund after the statute of limitations has expired. (*Appeal of Benemi Partners, L.P., supra.*) As such, OTA has no basis to overturn FTB's action for the 2018 taxable year.

HOLDING

Appellants' claim for refund of \$3,320.43 is barred by the statute of limitations.

DISPOSITION

OTA sustains FTB's action denying appellants' claim for refund.

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Teresa A. Stanley
Administrative Law Judge

Date Issued: 7/15/2025