

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: )  
**M. SILVA** ) OTA Case No. 240917423  
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**OPINION**

Representing the Parties:

For Appellant: M. Silva

For Respondent: Rosemary Villasenor, Senior Legal Analyst

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Silva (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$3,596 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 has established entitlement to a refund.

**FACTUAL FINDINGS**

1. On December 7, 2020, appellant filed his 2019 California Resident Income Tax Return (return).
2. On February 12, 2024, FTB issued appellant an Unclaimed Nonwage Withholding Credits letter notifying appellant of \$3,596.40 of unclaimed nonwage withholdings that he had not claimed on his original return. The letter stated that no refund may be allowed if it was not claimed within the statute of limitations period.
3. On May 15, 2024, appellant filed an amended return claiming the nonwage withholdings, resulting in a claimed refund of \$3,596.
4. FTB denied appellant’s claim for refund on the basis that it was filed outside of the statute of limitations period. This appeal follows.

## DISCUSSION

The law generally requires that taxpayers file their refund claims by the later of: (1) four years from the date the return is filed, if filed on or before the extended due date; (2) four years from the due date of the return without regard to any extensions; or (3) one year from the date of overpayment.<sup>1</sup> (R&TC, § 19306(a).) Taxpayers bear the burden of proving, by a preponderance of evidence, that a refund claim was timely filed, and the untimely filing of a claim for any reason bars a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellant contends his claim was timely under the four-year statute of limitations period because he filed his original return on July 13, 2020, and his claim for refund was filed on May 15, 2024, within four years from that date of filing.

For the 2019 tax year, the original return filing due date was April 15, 2020, and the extended filing due date was October 15, 2020. (R&TC, § 18566.)<sup>2</sup> Notably, FTB postponed the April 15 filing deadline to July 15, 2020, due to the COVID-19 pandemic.<sup>3</sup> However, the postponement was made pursuant to R&TC section 18527, which allows FTB to disregard a period of up to one year in determining whether certain tax-related acts were performed within the time prescribed, but does not provide FTB with the authority to alter the statutorily prescribed filing deadline as set forth in R&TC section 18566. (*Appeal of Bannon*, 2023-OTA-096P.) In other words, FTB's COVID-19 postponement does not change the last day prescribed for filing a return for purposes of filing a claim for refund. Thus, depending on whether appellant's original return was filed on or before the extended due date, the four-year statute of limitations expired either four years from the date the return was filed, or on April 15, 2024.

Appellant's asserted filing date of July 13, 2020, is before the extended due date of October 15, 2020, but appellant provides no evidence to support that his return was filed on this date. In contrast, FTB provides a copy of appellant's return with a December 7, 2020 filing date. Based on this, appellant has not demonstrated that his return was filed prior to December 7, 2020. Since appellant's return was filed on December 7, 2020, after the extended due date, the four-year statute of limitations to file a claim for refund expired on April 15, 2024.

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<sup>1</sup> For purposes of R&TC section 19306, amounts withheld are deemed paid on the original return due date. (R&TC, § 19002(c)(1).) Appellant does not contend, and the record does not reflect, that appellant's claim was filed within the one-year statute of limitations period.

<sup>2</sup> FTB provides individuals with an automatic six-month extension to file their returns. (Cal. Code Regs., tit. 18, § 18567(a).)

<sup>3</sup> State Postpones Tax Deadlines Until July 15 Due to the COVID-19 Pandemic, <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>.

Appellant's claim was filed on May 15, 2024, and is therefore untimely.

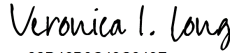
HOLDING

Appellant has not established entitlement to a refund.

DISPOSITION

FTB's denial of appellant's claim for refund is sustained.

Signed by:



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Veronica I. Long  
Administrative Law Judge

We concur:

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Teresa A. Stanley  
Administrative Law Judge

DocuSigned by:



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Keith T. Long  
Administrative Law Judge

Date Issued: 8/11/2025