

also stated that to file a claim for refund, a tax return must be filed.¹ The notice explained the statute of limitations for filing a refund claim under R&TC section 19306 and provided information on where to find the tax forms.

3. On April 15, 2024, FTB received appellant's 2016 California Resident Income Tax Return. It reported total tax of \$45, withholdings of \$123, estimated tax payments of \$2,957, and an overpayment of \$3,035, and requested the overpayment be credited to appellant's 2017 tax year.²
4. In an undated letter to FTB, appellant stated that he had submitted the 2016 tax return timely and was not aware that FTB had not received it. He stated that the tax return was not shown on his MyFTB account, and as a result, he was resubmitting it to FTB. He asserted that since 2014, he had been applying his refund for each year to the next year's tax return.³
5. On June 5, 2024, FTB issued a Statute of Limitations notice to appellant stating that FTB processed the 2016 return and treated it as a claim for refund for the overpayment of \$3,175,⁴ but that, due to the expiration of the statute of limitations, it denied the claim for refund in full.
6. Appellant timely filed this appeal with OTA.

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 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 in showing entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*,

¹ R&TC section 19307 provides that "[n]o refund of tax withheld or estimated tax paid shall be allowed to an employee or taxpayer who fails to file a return for the taxable year in respect of which the tax withheld or estimated tax was allowable as a credit."

² Appellant dated the return April 15, 2020; however, FTB's records reflect that it did not receive the return until four years later, on April 15, 2024.

³ This letter was provided by appellant with his appeal letter. The appeal record does not confirm whether FTB received the letter.

⁴ This amount is equal to appellant's estimated tax payment of \$3,097 (transferred from the 2015 tax year), plus withholdings of \$123, minus total tax of \$45. ($\$3,097 + \$123 - \$45 = \$3,175$.) Appellant's return incorrectly reported estimated tax payments of \$2,957, instead of the correct amount of \$3,097.

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.) The language of the statute of limitations is explicit and must be strictly construed. (*Ibid.*)

Here, appellant did not file his 2016 return (treated as a claim for refund) until April 15, 2024.⁵ Because appellant did not file a timely tax return during the extended filing period, the first four-year statute of limitations period is inapplicable. The second statute of limitations period expired on April 15, 2021, four years from the original due date of April 15, 2017, for appellant's 2016 return. (R&TC, §§ 19306(a), 18566.) FTB postponed this deadline until May 17, 2021, due to the COVID-19 pandemic.⁶ Because appellant did not file his 2016 return (treated as his claim for refund) until April 15, 2024, three years after the postponed deadline of May 17, 2021, appellant's claim for refund is also untimely under the second four-year statute of limitations.

The one-year statute of limitations period runs one year from the date of payment. For purposes of the statute of limitations, withholding and estimated tax payments are deemed paid on the due date of the return (without regard to extensions). (R&TC, § 19002(c).) Therefore, appellant's withholding and estimated tax payments are deemed paid on April 15, 2017. (R&TC, §§ 19002(c), 18566.) The one-year statute of limitations period expired one year later, on April 15, 2018. As such, appellant's April 15, 2024 claim for refund is beyond the one-year statute of limitations.

Appellant's only contention on appeal is that he timely filed his 2016 return (presumably claiming a refund of his estimated tax payments and withholdings). However, FTB's records indicate that it did not receive a 2016 return from appellant until April 15, 2024. Appellant does not provide any evidence to support his assertion (such as a registered or certified mail receipt or electronic filing confirmation) that his 2016 return was timely filed. In fact, appellant does not even explain when he contends the 2016 return was filed (other than stating that it was "timely" and submitted "back in 2016"), and whether this return was filed by mail or electronically.

A taxpayer attempting to prove that a paper return was timely mailed must provide evidence, such as a registered or certified mail receipt, showing that the return was timely mailed and thus timely filed with FTB. (*Appeal of Fisher*, 2022-OTA-337P.) Similarly, a taxpayer attempting to prove that a return was timely filed electronically must provide evidence, such as confirmation of filing from the tax preparation software, showing the return was

⁵ OTA addresses appellant's assertion that he timely filed a 2016 California return below.

⁶ See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-may-17-2021.html>.

electronically filed with and accepted by FTB. (*Ibid.*) Appellant has failed to provide any such evidence here. Appellant has the burden of proof to establish both that he is entitled to a refund and that the claim for refund is timely. (*Appeal of Estate of Gillespie, supra.*) Appellant's unsupported assertion that he timely filed his 2016 return is insufficient to meet this burden of proof.


Additionally, OTA notes that while FTB does not have an obligation to discover a taxpayer's overpayment or inform a taxpayer of the time within which a claim for refund must be filed (see *Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856; *Appeal of Cervantes* (74-SBE-029) 1974 WL 2844), FTB did so here. FTB notified appellant of the missing return on December 9, 2020, when the statute of limitations was still open. Appellant's timely response to FTB's notice would have resulted in the timely filing of the claim and application of the 2016 overpayment towards 2017. However, without a timely refund claim, FTB does not have the statutory authorization to credit or refund amounts paid, and OTA does not have statutory authorization to require FTB to do so. (*Appeal of Estate of Gillespie, supra.*) Additionally, OTA may not suspend the statute of limitations based on equity or reasonable cause. (*Appeal of Benemi Partners, L.P., supra.*)

HOLDING

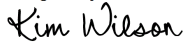
Appellant's claim for refund for the 2016 tax year is barred by the statute of limitations.


DISPOSITION

FTB's action denying appellant's claim for refund is sustained.

DocuSigned by:

Cheryl L. Akin
Administrative Law Judge

We concur:

Signed by:

Kim Wilson
Hearing Officer

Signed by:

Seth Elsom
Hearing Officer

Date Issued: 7/16/2025