



## 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.)

The first four-year statute of limitations period does not apply here as appellants did not timely file the 2019 tax return by the extended due date. The second four-year statute of limitations period expired on April 15, 2024, four years after the original return due date of April 15, 2020. The one-year statute of limitations period expired on April 15, 2021, one year after the withholdings were deemed paid. As such, the later of the four-year statute or one-year statute of limitations was April 15, 2024. Since appellants filed the claim for refund on May 13, 2024, the claim for refund is barred by the statute of limitations.

On appeal, appellants first assert that they filed their 2019 California return on October 15, 2020, and therefore had until October 15, 2024, to file a claim for refund under the first four-year statute of limitations. In support of their argument, appellants provide a 2019 e-file Activity Report that indicates appellants submitted a California return on October 15, 2020, but the return was rejected. The report instructs appellants to correct a number of detected errors before transmitting the return again. Appellants provide no evidence that a subsequent timely return was filed.

Appellants' argument that they filed the 2019 California return on October 15, 2020, is not supported by the evidence in the record. Appellants' e-file report confirms they attempted to file a return but the return was rejected. Appellants provide no evidence that they filed a timely return that was accepted. FTB's records indicate appellants did not file a timely return for the 2019 tax year. As such, the first four-year statute of limitations is not applicable.

Appellants next assert that they filed their claim for refund within the second four-year statute of limitations based on the special tax relief due to COVID-19 that postponed the original 2019 tax year filing and payment deadlines for individuals until July 15, 2020.<sup>1</sup> Appellants argue

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<sup>1</sup> See [www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-5-april-15-tax-day-postponed-until-july-15-2020.html](http://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-5-april-15-tax-day-postponed-until-july-15-2020.html).

that since the original due date for the 2019 return was postponed to July 15, 2020, the second four-year statute of limitations expired on July 15, 2024. Appellants conclude that since they filed the claim for refund on May 13, 2024, it was within the second four-year statute of limitations.

However, the second four-year statute of limitations expired on April 15, 2024. FTB'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.<sup>2</sup> (*Appeal of Bannon*, 2023-OTA-096P.) When applying the IRC for purposes of California's 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(d).) Treasury Regulation section 301.7508A-1(b)(4) provides that "to 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." Accordingly, FTB's postponement of the original 2019 tax return due date to July 15, 2020, did not change the original due date of April 15, 2020, upon which the second four-year statute of limitations is based. As such, the claim for refund filed on May 13, 2024, was filed after the expiration of the second four-year statute of limitations. Since appellants filed their claim for refund outside the statute of limitations period, appellants' claim for refund is time-barred.

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<sup>2</sup> R&TC section 18572 only modifies IRC section 7508A to provide that postponements under this section apply to taxpayers affected by a state of emergency declared by the Governor of California.

HOLDING

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

DISPOSITION

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

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Erica Parker  
Hearing Officer

We concur:  
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*Josh Aldrich*  
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Josh Aldrich  
Administrative Law Judge

DocuSigned by:  
*Teresa A. Stanley*  
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Teresa A. Stanley  
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For

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