

In the Matter of the Appeal of: ) OTA Case No. 240817075  
D. KITTA )  
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1. On February 21, 2024, FTB informed appellant he may be entitled to nonwage withholding credits of \$10,782 for the 2019 tax year, and to claim them appellant should mail a copy of his 2019 California tax return (if one was filed) with supporting documents. In that same letter, FTB also informed appellant that if he wished to obtain a refund or credit of the \$10,782, he must file his 2019 tax return (if one was not filed) within the statute of limitations under R&TC section 19306.
2. On June 15, 2024, appellant filed his California Nonresident or Part-Year Resident Income Tax Return reporting total tax of \$7,280, withholdings of \$10,782, and an overpayment of \$3,502.

3. FTB accepted appellant's return as a claim for refund of \$3,502. However, due to the statute of limitations, FTB denied appellant's claim for refund.
4. This timely appeal followed.

### DISCUSSION

Generally, 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 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. (R&TC, § 19306(a).) The taxpayer has the burden of proving that the claim for refund was timely and that the taxpayer is entitled to the refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is no reasonable cause exception or equitable basis for suspending the statute of limitations. (*Ibid.*) A taxpayer's untimely filing of a claim for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) This is true even when it is later shown that the tax was not owed in the first place. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) While the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Benemi Partners, L.P.*, *supra.*)

Appellant did not timely file his 2019 tax return within the extension period. Accordingly, the first four-year statute of limitations period is not applicable. The second four-year statute of limitations period expired on April 15, 2024, for the 2019 return since the return was originally due on April 15, 2020. (R&TC, §§ 18566, 19306(a).) Appellant filed his California return on June 15, 2024, which FTB accepted as a claim for refund, two months after the expiration of the four-year statute of limitations period on April 15, 2024. Therefore, appellant's claim for refund is untimely under the four-year statute of limitations.

The one-year statute of limitations period runs one year from the date of payment. Under R&TC section 19002(c)(1), payments made by way of withholding are deemed paid on the due date of the return. Thus, the one-year statute of limitations expired on April 15, 2021, prior to appellant's claim for refund filed on June 15, 2024. As such, appellant's claim for refund was beyond the one-year statute of limitations period and is accordingly barred.

Appellant notes that for the 2019 tax year FTB postponed the filing and payment deadline from April 15, 2020, to July 15, 2020.<sup>1</sup> As such, appellant believes that his 2019 return was filed within four years from the postponed due date and is therefore timely under the four-year statute of limitations.

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. (*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 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, FTB's postponement of the filing deadline to July 15, 2020, did not change the original due date of April 15, 2020, upon which the four-year statute of limitations for refund claims is based. Therefore, appellant's claim for refund does not meet the requirements above and thus is barred by the statute of limitations.

#### HOLDING

Appellant's claim for refund for the 2019 tax year is barred by the statute of limitations.

#### DISPOSITION

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

Signed by:

*Kim Wilson*

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Kim Wilson  
Hearing Officer

We concur:

Signed by:

*Natasha Ralston*

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Natasha Ralston  
Administrative Law Judge

DocuSigned by:

*Teresa A. Stanley*

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Teresa A. Stanley  
Administrative Law Judge

Date Issued: 8/27/2025

<sup>1</sup> See FTB, *State Postpones Tax Deadlines Until July 15 Due to the COVID-19 Pandemic*, news release (March 18, 2020) <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>.