

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
HD RESEARCH CORP.) OTA Case No. 241117992
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OPINION

Representing the Parties:

For Appellant: Robert J. Johnson, Attorney

For Respondent: David C. Cortez, Program Specialist

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, HD Research Corp. (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$493,164 for the 2019 tax year.

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether appellant’s claim for refund is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant is an S Corporation with two shareholders that was headquartered out of state for the tax year at issue. On February 21, 2024, FTB issued one of appellant’s shareholders a Nonwage Withholding Credits notice informing the shareholder of available nonwage withholding credits. The notice stated that to claim a refund, a tax return must be filed before the expiration of the statute of limitations.
2. On April 23, 2024, appellant contacted FTB by phone. FTB’s representative instructed appellant to file Form 540NR to claim the withholding credits and stated that the statute of limitations to claim a refund would expire on July 15, 2024.
3. On July 2, 2024, FTB received appellant’s 2019 group nonresident return (Form 540NR) requesting a refund of \$493,164.

4. FTB processed the group nonresident return as filed. FTB denied the claim for refund because it was filed after the expiration of the statute of limitations. This timely appeal follows.

DISCUSSION

R&TC section 19306(a) requires a taxpayer to 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 last day 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 overpayment.

It is undisputed that appellant did not file Form 540NR by the extended due date. It is also undisputed that the one-year statute of limitations for overpayments is not applicable in this case because for purposes of computing the statute of limitations on refund claims, withholdings are deemed paid on the original due date of the return and appellant did not file the claim for refund by April 15, 2021. (Cal. Code Regs., tit. 18, § 19002(d)(1).) Thus, the applicable four-year statute of limitations period is “four years from the last day prescribed for filing the return (determined without regard to any extension of time for filing the return).” (R&TC § 19306(a).)

Appellant contends that its refund claim received by FTB on July 2, 2024, is timely under the four-year statute of limitations period described above for an untimely filed return. Appellant asserts that the last day prescribed for filing an individual tax return for the 2019 tax year was changed by FTB from April 15, 2020, to July 15, 2020, which in turn allowed appellant until July 15, 2024, to file its refund claim.

On March 18, 2020, FTB announced on its website that, due to the COVID-19 pandemic, it would postpone the 2019 tax return filing deadline for all individuals and business entities to July 15, 2020.¹ 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 that 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 due date to July 15, 2020,

¹ Due to the COVID-19 pandemic, FTB postponed the return due date from April 15, 2020, to July 15, 2020. (See <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>.)

did not change the original due date of April 15, 2020, upon which the four-year statute of limitations for refund claims is based. (*Appeal of Nguyen*, 2025-OTA-333P.)

It is undisputed that FTB erroneously informed appellant that the statute of limitations expired July 15, 2024. However, this misinformation was provided to appellant on April 23, 2024, after the statute of limitations had already expired. Thus, although FTB did provide appellant with the wrong date, it was not ultimately responsible for appellant's untimely filing of its claim for refund. Additionally, even if FTB had been responsible for a delay in appellant's claim for refund and caused the claim to be filed after the expiration of the statute of limitations, unfortunately, there is no reasonable cause or equitable basis for suspending the statutory period. (See *Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) A taxpayer's failure to file a claim for refund or credit within the statutory period bars a refund or credit even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) Further, R&TC section 18572 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, supra*; *Appeal of Nguyen, supra.*)


In conclusion, FTB's COVID-19 postponement did not change the last day prescribed for filing a return, which was April 15, 2020. Appellant's claim is untimely because it was filed more than four years after that date.

HOLDING

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

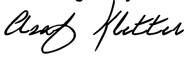
DISPOSITION

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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Asaf Kletter
Administrative Law Judge

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Andrew Wong
Administrative Law Judge

Date Issued: 9/3/2025