

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

In the Matter of the Appeal of: )  
**J. ANGULO** ) OTA Case No. 241118130  
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**OPINION**

Representing the Parties:

For Appellant: Julia Gutierrez, EA

For Respondent: Ariana Macedo, Attorney

S. ELSOM, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Angulo (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$11,322 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. On April 6, 2020, appellant timely filed a 2019 California Nonresident or Part-Year Resident Income Tax Return reporting total tax of \$674, withholdings of \$1,075, and a \$401 overpayment and claim for refund. Respondent subsequently issued the refund to appellant.
2. On February 12, 2024, respondent sent appellant an Unclaimed Nonwage Withholding Credits letter, informing him that he may be entitled to nonwage withholdings of \$11,322 and must file an amended tax return to claim them. Respondent’s letter informed appellant of the applicable statute of limitations to file a claim for refund.
3. On June 6, 2024, appellant filed an amended 2019 California Nonresident or Part-Year Resident Income Tax Return, treated by respondent as a claim for refund, increasing

withholdings and payments to \$12,397 (withholdings of \$1,075 originally reported plus nonwage withholdings of \$11,322 additionally claimed) and requesting a refund of \$11,322.

4. Respondent sent appellant a Statute of Limitations letter denying appellant's claim for refund due to the expiration of the statute of limitations.
5. This timely appeal followed.

### DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. The statute of limitations provides, in pertinent part, that 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 due date 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 proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, (Benemi) 2020-OTA-144P.)

The language of the statute of limitations is explicit and must be strictly construed. (*Benemi, supra.*) 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. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Appellant filed his 2019 return on April 6, 2020. Thus, the second statute of limitations period applies. The original due date for filing the 2019 return was April 15, 2020, and the four-year statute of limitations expired four years later on April 15, 2024. (R&TC, §§ 18566, 19306(a).) Appellant filed the claim for refund on June 6, 2024, after the expiration of the four-year statute of limitations. Therefore, appellant's claim for refund is barred by the four-year statute of limitations. With regard to the one-year statute of limitations, appellant's only payments for the 2019 tax year are withholding credits, which are deemed to be paid on the original due date of the return of April 15, 2020. (R&TC § 19002(c)(1).) Thus, the one-year statute of limitations expired one year later on April 15, 2021. Since appellant filed the claim for refund on June 6, 2024, it is barred by the one-year statute of limitations.

On appeal, appellant argues that he filed the claim for refund within the four-year statute of limitations based on the COVID-19 state of emergency postponement respondent provided to

taxpayers in 2020 that postponed the original filing and payment deadlines for individuals and businesses until July 15, 2020.<sup>1</sup> In other words, since the original due date for the 2019 return was postponed until July 15, 2020, appellant asserts that the four-year statute of limitations should have expired on July 15, 2024.

As stated above, the four-year statute of limitations expired on April 15, 2024, four years from the original April 15, 2020 due date of appellant's 2019 return. (R&TC, §§ 18566, 19036(a).) Respondent'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(d).) 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, respondent's postponement of the due date 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. For the foregoing reasons, appellant's claim for refund is barred under the statute of limitations.

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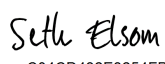
<sup>1</sup> See [www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-5-april-15-tax-day-postponed-until-july-15-2020.html](http://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-5-april-15-tax-day-postponed-until-july-15-2020.html).

HOLDING


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

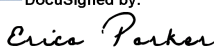
DISPOSITION

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

Signed by:  
  
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Seth Elsom  
Hearing Officer

We concur:

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Sara A. Hosey  
Administrative Law Judge

DocuSigned by:  
  
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Erica Parker  
Hearing Officer

Date Issued: 9/10/2025