

- \$3,000 on appellant's account. From September 28, 2023, to September 30, 2024, FTB received payments totaling \$1,200 on appellant's account.
4. On September 3, 2024, appellant filed a 2009 California Nonresident or Part-Year Resident Income Tax Return (Form 540NR) reporting no tax due and requesting a refund of all payments made.
 5. FTB accepted appellant's return as filed and treated it as a claim for refund. FTB removed the late filing penalty and imposed a collection cost recovery fee of \$154, a lien fee of \$36, and an installment agreement fee of \$34, resulting in a total overpayment of \$3,976. FTB issued appellant a refund of \$1,200 and denied appellant's claim for the remaining balance of \$2,776.
 6. This timely appeal follows.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. R&TC section 19306(a) provides 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 (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (Cal. Code Regs., tit. 18, § 30219(a)-(b); *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is generally no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) Absent an exception, 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.*)

Here, appellant's 2009 tax return, which was filed on October 9, 2024, is treated as appellant's claim for refund. The applicable four-year statute of limitations period for appellant's refund claim expired on April 15, 2014, four years from the original due date of the return. Appellant's refund claim was filed well after the four-year statutory period expired.

The alternative one-year statute of limitations period expired one year from the date of appellant's overpayments. Payments were made on appellant's account from March 29, 2021, through September 30, 2024. Only payments made within one year of appellant's claim, or by

October 9, 2023, are within the one-year statute of limitations period. Payments within the one-year period, totaling \$1,200, were refunded to appellant on October 8, 2024. The remaining overpayments are outside the one-year statute of limitations period.

Appellant does not contest that the refund claim was untimely filed. Appellant asserts that he was delayed in filing his return because of health issues, that he did not owe tax because he was a nonresident, and that he was misled by FTB's representatives and unaware that his payments would not be refundable.

As an initial matter, even though appellant paid amounts in excess of the taxes owed for the tax year at issue, a credit or refund for those amounts is still barred by the statute of limitations if a claim is not timely filed. (*Appeal of Benemi Partners, L.P., supra.*) The statute of limitations for refund claims must be strictly construed, unless an exception applies. (*Ibid.*)

One such exception occurs when an individual taxpayer is "financially disabled," as defined in R&TC section 19316.¹ On appeal, FTB provided appellant with a form to show financial disability and request tolling of the statute of limitations period, but no response was provided. Appellant has not demonstrated that he is entitled to tolling of the statute of limitations due to financial hardship because he has not substantiated his claim that health problems prevented him from timely filing a claim for refund.

As to appellant's contentions that he did not owe tax because he was a nonresident, that he was misled by FTB's representative, and that he was unaware of the statute of limitations to file a claim for refund, 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. (*Appeal of Benemi Partners, L.P., supra.*) In addition, FTB does not have a duty to inform taxpayers of when the statute of limitations for claims for refund will expire. (*Appeal of Gleason* (86-SBE-113) 1986 WL 22735.) Accordingly, appellant's claim for refund is untimely and barred by the statute of limitations.

¹ An individual taxpayer is financially disabled if: (1) the taxpayer is unable to manage their financial affairs due to a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months; and (2) there is no spouse or other legally authorized person to act on the taxpayer's behalf in financial matters. (R&TC, § 19316(b).) Financial disability is established in accordance with the procedures and requirements specified by FTB. (R&TC, § 19316(a).)

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:
Veronica I. Long
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Veronica I. Long
Administrative Law Judge

We concur:

Signed by:
Suzanne B. Brown
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Suzanne B. Brown
Administrative Law Judge

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Josh Aldrich
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Josh Aldrich
Administrative Law Judge

Date Issued: 9/12/2025