**OFFICE OF TAX APPEALS**

**STATE OF CALIFORNIA**

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| In the Matter of the Appeal of:<br>**R. JONES AND**<br>**L. JONES** | OTA Case No. 241218146 |

## OPINION

Representing the Parties:

For Appellants: R. Jones
L. Jones

For Respondent: Noel Garcia-Rosenblum, Attorney

K. WILSON, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Jones and L. Jones (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of $24,796.02 for the 2017 tax year.

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

## ISSUE

Whether appellants' claim for refund for the 2017 tax year is barred by the statute of limitations.

## FACTUAL FINDINGS

1. Appellants filed an untimely 2017 California tax return on May 23, 2019, reporting total tax of $18,630, a self-imposed underpayment of estimated tax penalty of $474, and a total amount due of $19,104. Appellants did not make a payment upon filing their return.
2. On May 30, 2019, FTB sent appellants a Notice of Tax Return Change – Revised Balance, which added a late payment penalty of $4,657.50 and applicable interest.
3. On September 12, 2019, appellants made a payment of $25,277.93, satisfying the liability.

4. On October 24, 2024, appellants filed an amended return reporting zero taxable income, zero total tax, and zero tax due.
5. FTB accepted appellants' amended return as a claim for refund and on October 30, 2024, sent a Statute of Limitations letter notifying appellants that their claim for refund of $24,796.02 was disallowed because the statute of limitations had expired to claim a refund or credit.[1]
6. Appellants filed this appeal.

## 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*.)

Appellants did not timely file their 2017 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, 2022, since the return was originally due on April 15, 2018. (R&TC, §§ 18566, 19306(a).) Appellants filed their 2017 amended return on October 24, 2024, which FTB accepted as a claim for refund. This was after the expiration of the four-year statute of limitations period on April 15, 2022. Therefore, appellants' claim for refund is untimely under the four-year statute of limitations.

[1] The difference between total payments and the disallowed claim for refund amount is equivalent to the self-imposed underpayment of estimated tax penalty.

The one-year statute of limitations period runs one year from the date of payment. Appellants made a payment on September 12, 2019. As such, appellants' claim for refund dated October 24, 2024, was filed beyond the one-year statute of limitations period for the payment and is accordingly barred.

On appeal, appellants assert that they completed an amended return and are therefore owed a refund. Additionally, appellants request that the funds be used to pay taxes for their corporation. However, R&TC section 19306(a) bars both refunds and credits unless the claim for refund is filed within the applicable statute of limitations. Because the claim for refund was not filed within the applicable statute of limitations, the funds cannot be refunded, credited or applied to their corporation. Appellants do not assert any basis upon which the statute of limitations may be suspended.

## HOLDING

Appellants' claim for refund for the 2017 tax year is barred by the statute of limitations.

## DISPOSITION

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

Signed by:
Kim Wilson
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Kim Wilson
Hearing Officer

We concur:

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Steven Kim
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Steven Kim
Administrative Law Judge

DocuSigned by:
K Long
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Keith T. Long
Administrative Law Judge

Date Issued: 8/27/2025