



4. The NPA went final and FTB initiated collection action resulting in the imposition of a \$194 collection cost recovery fee. FTB received payments totaling \$2,513.29 from April 15, 2015, to February 12, 2021.
5. Appellant filed a 2011 California Resident Income Tax Return (return) on July 1, 2024, reporting \$0 tax due. FTB processed the return as filed, accepted the reported tax and abated the late filing penalty. FTB treated the 2011 return as a claim for refund and denied the claim because it was filed after the statute of limitations expired.
6. Appellant timely filed this appeal.

### DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall 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. For purposes of R&TC section 19306, amounts withheld are deemed paid on the original return due date. (R&TC, § 19002(c)(1).) 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.*, 2020-OTA-144P.)

Here, appellant filed an untimely 2011 return on July 1, 2024. The four-year statute of limitations expired on April 15, 2016, four years from the original due date of the tax return on April 15, 2012. Therefore, appellant filed the claim for refund beyond the four-year statute of limitations period. As appellant filed the claim for refund on July 1, 2024, only payments made within one year prior to this date, or July 1, 2023, can be refunded. The latest payment applied towards appellant's 2011 account was made on February 12, 2021. Therefore, all payments were made over one year prior to the filed claim for refund.

Appellant argues that he was unaware of the statute of limitations and that he is experiencing financial hardship and therefore he is entitled to a refund of his overpayment. However, the law does not provide for the waiver of the statute of limitations based on reasonable cause or equity. (*Appeal of Benemi Partners, L.P., supra.*) A taxpayer's failure, for whatever reason, to file a claim for refund or credit within the statutory period prevents the taxpayer from doing so at a later date. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) This is true even when it is later shown that the tax was not owed in the first instance. (*Appeal of Benemi Partners, L.P., supra.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*) Furthermore, ignorance of


the law does not excuse the failure to meet statutory deadlines. (*Appeal of GEF Operating, Inc.*, 2020-OTA-057P.) Appellant's untimely claim for refund is therefore barred by the statute of limitations.

HOLDING

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

DISPOSITION

FTB's action is sustained.

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Sara A. Hosey  
Administrative Law Judge

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