

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
A. GUTIERREZ) OTA Case No. 241117895
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OPINION

Representing the Parties:

For Appellant: A. Gutierrez
For Respondent: Ganeet Atwaal, Legal Analyst

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, A. Gutierrez (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$5,396.99 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 did not timely file a 2019 California tax return.
2. FTB issued a Request for Tax Return (Request), which stated FTB received information indicating that appellant held an active professional/business license with the Department of Insurance in 2019, but appellant had not filed a tax return. The Request informed appellant that if a response was not received by a specified date, FTB would assess tax based on available information. Appellant did not respond to the Request.
3. FTB issued a Notice of Proposed Assessment (NPA) for the 2019 tax year that estimated appellant’s income based on the average income reported by individuals in appellant’s industry, and proposed to assess tax and a late filing penalty, plus interest.

Appellant did not respond to the NPA, and the proposed assessment became final and payable.

4. FTB commenced collection action, and on August 8, 2022, received a payment in satisfaction of appellant's 2019 tax year account balance.
5. On September 3, 2024, appellant untimely filed a California tax return for the 2019 tax year, reporting zero taxable income and zero total tax.
6. FTB accepted the return as filed and treated it as a claim for refund. FTB denied the claim for refund due to the expiration of the statute of limitations, and this timely appeal followed.

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. The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (*Appeal of Fischer (Dec'd)*, 2024-OTA-518P.)

The first four-year statute of limitations period does not apply here as appellant did not timely file the 2019 tax return within the extension period. The second four-year statute of limitations period expired on April 15, 2024, four years after the original due date of April 15, 2020. The one-year statute of limitations period expired on August 8, 2023, one year from the date FTB applied the final payment satisfying appellant's 2019 tax year balance. As such, the later of the four-year and one-year statutes of limitations was April 15, 2024.

Appellant does not dispute that the claim for refund filed on September 3, 2024, was filed outside of the statute of limitations prescribed in R&TC section 19306(a). Rather, appellant's argument is equitable in nature. Appellant contends that she did not have a filing requirement for the 2019 tax year because she did not have income in that year. Appellant appears to assert that the statute of limitations should not bar her claim for refund because she did not have a filing obligation.

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The language of the statute of limitations is explicit and must be strictly construed. (*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 properly owed.
(*Ibid.*) Therefore, appellant’s claim for refund is barred by the statute of limitations.

HOLDING

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

DISPOSITION

FTB’s action denying appellant’s claim for refund is sustained.

DocuSigned by:
Erica Parker
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Erica Parker
Hearing Officer

We concur:

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

DocuSigned by:
Teresa A. Stanley
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Teresa A. Stanley
Administrative Law Judge

Date Issued: 9/18/2025