

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Appeal of:	)	OTA Case No. 240716948
<b>C. COLE</b>	)	
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**OPINION**

Representing the Parties:

For Appellant:	C. Cole
For Respondent:	John Ly, Attorney Jaclyn Zumaeta, Deputy Chief Counsel

A. KLETTER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Cole (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$8,033 for the 2019 tax year.

Office of Tax Appeals (OTA) Panel Members Asaf Kletter, Erica Parker, and Andrew Wong held an oral hearing for this matter in Cerritos, California, on August 13, 2025. At the conclusion of the hearing, the record was closed, and this matter was submitted for an opinion pursuant to California Code of Regulations, title 18, section 30209(b).

**ISSUE**

Whether the statute of limitations bars appellant's claim for refund for the 2019 tax year.

**FACTUAL FINDINGS**

1. Appellant timely filed a 2019 California income tax return on February 27, 2020, reporting total tax of \$3,854, California income tax withholdings of \$1,970, and an amount due of \$1,884. On April 13, 2020, appellant paid \$1,884 to FTB.
2. On February 21, 2024, FTB issued appellant an Unclaimed Nonwage Withholding Credit notice (Notice) informing appellant of estimated unclaimed nonwage withholding credits of \$8,033. The Notice informed appellant that appellant must file a tax return to claim a refund within the applicable statute of limitations date.

3. On May 24, 2024, FTB received appellant's amended 2019 California income tax return claiming the nonwage withholding credits and requesting a refund of \$8,033.
4. FTB processed the return as filed. In a Statute of Limitations notice dated July 17, 2024, FTB denied the claim for refund because appellant filed it after the expiration of the statute of limitations.
5. Appellant filed this timely appeal. On appeal, appellant provided testimony concerning appellant's actions after receiving FTB's Notice. FTB explained its policy of sending courtesy notices for unclaimed nonwage withholding credits to taxpayers 60 days before the expiration of the statute of limitations.

### DISCUSSION

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.) A taxpayer's failure to file a claim for refund within the statute of limitations, for any reason, bars the taxpayer from later claiming a refund. (*Appeal of Estate of Gillespie*, *supra*.)

It is undisputed that appellant's claim for refund, the amended 2019 California income tax return, was untimely filed on May 24, 2024.<sup>1</sup> Appellant argues that FTB untimely notified her of the nonwage withholding credits during the peak of tax season, when appellant's tax preparer was swamped, and so appellant inadvertently missed the deadline. However, FTB has no duty to notify taxpayers of the statute of limitations, or to discover or notify the taxpayer of overpayments of income tax. (*Appeal of Gleason* (86-SBE-113) 1986 WL 22735; *Appeal of Cervantes* (74-SBE-029) 1974 WL 2844.)

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<sup>1</sup> 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 first four-year statute is inapplicable because appellant did not file her return on an extension of time to file. The second four-year statute of limitations expired on April 15, 2024. (See R&TC, §§ 18566, 19306(a); *Appeal of Nguyen*, 2025-OTA-333P.) The one-year statute of limitations expired on April 15, 2021 (See R&TC, §§ 19306(a), 19002(c)(1); Cal. Code Regs., tit. 18., §19002(d)(1) [income tax withholdings are deemed paid on the original due date of the return].) Thus, appellant had until April 15, 2024, to file the claim for refund.


Appellant also argues that the result is unfair.<sup>2</sup> However, there is generally no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) At the oral hearing, FTB explained that its policy is to send courtesy notices for unclaimed nonwage withholding credits to taxpayers 60 days before the statute of limitations expires. Here, appellant was unfortunately unable to meet the deadline. Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*, citing *Prussner v. U.S.* (7<sup>th</sup> Cir. 1990) 896 F.2d 218, 222-223.)

### HOLDING

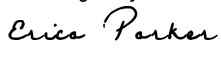
The statute of limitations bars appellant's claim for refund for the 2019 tax year.

### DISPOSITION

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

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Asaf Kletter  
Administrative Law Judge

We concur:

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Erica Parker  
Hearing Officer

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Andrew Wong  
Administrative Law Judge

Date Issued: 10/1/2025

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<sup>2</sup> Appellant compares R&TC section 19306, which provides the statute of limitations for a claim for refund, against R&TC section 19255, which generally provides that FTB may not collect a tax liability after 20 years from the date the liability became due and payable. However, R&TC section 19306 is properly comparable to R&TC section 19057, which generally provides FTB a four-year statute of limitations to mail a notice of proposed deficiency assessment to the taxpayer.