



4. Respondent made comparable adjustments and issued appellants a Notice of Proposed Assessment (NPA), increasing appellants' California taxable income by \$7,935, and imposing \$640 in additional tax, plus interest. Appellants did not protest the NPA, and it went final.
5. On April 17, 2023, respondent transferred \$755.05 from appellants' 2022 tax year overpayment to appellants' 2018 taxable year account.
6. Appellants submitted an amended 2018 tax return on May 26, 2023. The amended return included the previously unreported income, as well as additional itemized deductions: (1) \$1,253 in state and local personal property taxes; (2) \$19,810 in charitable deductions carried over from the prior year; and (3) \$7,936 in other deductions. Respondent treated the amended return as a claim for refund.<sup>2</sup>
7. Respondent sent a letter to appellants' last known address in Yolo County explaining its position regarding the refund claim and requested a response within 30 days. When appellants did not respond, respondent denied appellants' refund claim in the amount of \$2,810,<sup>3</sup> which appellants appealed.
8. During this appeal, the IRS removed the additionally assessed tax for the 2018 taxable year on November 27, 2023. Consequently, respondent agreed to refund appellants \$755.05, which represents the tax and interest respondent assessed and collected based on the federal adjustment. However, the remaining amount of appellants' refund claim, which is based on additional itemized deductions, was disallowed due to the expiration of the statute of limitations.

### DISCUSSION

#### Issue 1: Whether appellants' claim for refund was timely.

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. (R&TC, § 19306(a).) The taxpayer has the burden of proving entitlement to a refund and that the claim

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<sup>2</sup> The refund figure listed on the amended return does not account for the refund issued to appellants in 2019, nor the transfer payment made on April 17, 2023. Based on appellants' reported income and deductions, respondent lists the correct refund amount as \$2,925.05.

<sup>3</sup> This figure represents the claimed amount, \$2,925.05, minus \$115.05 in interest.

is timely. (Cal. Code Regs., tit. 18, § 30219(a)-(b); *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Here, appellants' 2018 amended return, filed on May 26, 2023, is treated as appellants' claim for refund. The applicable four-year statute of limitations period for appellants' refund claim expired on April 15, 2023, four years from the original due date of the return. Thus, appellants' refund claim was filed outside of the four-year statutory period.

However, due to the 2023 California winter storms, the IRS issued Notice CA-2023-01 and CA-2023-02 that granted affected taxpayers until May 15, 2023, to perform time-sensitive actions described in Treasury Regulation section 301.7508A-1(c)(1), which expressly includes filing a claim for credit or refund of any tax. (Treas. Reg. § 301.7508A-1(c)(1)(v).) This May 15, 2023, deadline was later extended to October 16, 2023, and subsequently to November 16, 2023.<sup>4</sup> The postponement relates to certain deadlines falling on or after January 8, 2023, through November 16, 2023, and applies to "individuals and households affected by severe winter storms, flooding, and mudslides that reside or have a business" in certain California counties.<sup>5</sup> Appellants' residence listed on the 2018 return was located in Yolo County, which is a qualifying county. In addition, the original deadline for appellants to file a claim for refund was April 15, 2023, which is during the applicable postponement period of December 27, 2022, to November 16, 2023.

In a news release, respondent stated that it conformed to IR-2023-189, which extended the federal deadline for those affected by the 2023 California winter storms to November 16, 2023.<sup>6</sup> In that same news release, respondent also stated that it "generally conforms to the IRS postponement periods for presidentially declared disasters."<sup>7</sup> Therefore, appellants timely filed their claim for refund within respondent's postponement period, which

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<sup>4</sup> See IR-2023-189, Oct. 16, 2023, available at: [www.irs.gov/newsroom/for-california-storm-victims-irs-postpones-tax-filing-and-tax-payment-deadline-to-nov-16](http://www.irs.gov/newsroom/for-california-storm-victims-irs-postpones-tax-filing-and-tax-payment-deadline-to-nov-16).

<sup>5</sup> Counties qualifying for relief include all counties except Lassen, Modoc, and Shasta. See [www.irs.gov/newsroom/irs-announces-tax-relief-for-victims-of-severe-winter-storms-flooding-and-mudslides-in-california](http://www.irs.gov/newsroom/irs-announces-tax-relief-for-victims-of-severe-winter-storms-flooding-and-mudslides-in-california).

<sup>6</sup> See [www.ftb.ca.gov/about-ftb/newsroom/news-releases/10-16-extended-tax-deadline.html](http://www.ftb.ca.gov/about-ftb/newsroom/news-releases/10-16-extended-tax-deadline.html). See also [www.ftb.ca.gov/about-ftb/newsroom/news-releases/2023-10-due-date-for-tax-returns-payments-moved.html](http://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2023-10-due-date-for-tax-returns-payments-moved.html).

<sup>7</sup> Respondent's authority to grant state of emergency postponements for tax-related acts is found in R&TC section 18572(b), which adopts Internal Revenue Code (IRC) section 7508A. (See also *Appeal of Bannon*, 2023-OTA-096P.) When applying the IRC for purposes of California personal income tax, IRS Treasury Regulations shall be applicable to the extent that they do not conflict with California personal income tax code sections or regulations. (R&TC, § 17024.5.)

postponed the four-year statute of limitations to timely file a claim for refund to November 16, 2023. (See *Appeal of Pomrehn*, 2025-OTA-269P.)

Issue 2: Whether appellants have established entitlement to the additional itemized deductions claimed for the 2018 taxable year.

Income tax deductions are a matter of legislative grace, and the taxpayer bears the burden of establishing entitlement to the deductions claimed. (*Appeal of Dillahunty*, 2024-OTA-024P.) To meet this burden, a taxpayer must point to an applicable statute authorizing the deduction and show by credible evidence that the deduction claimed falls within the scope of the statute. (*Ibid.*) The applicable standard of proof is proof by a preponderance of the evidence.<sup>8</sup> (Cal. Code Regs., tit. 18, § 30219(b).) Unsupported assertions are insufficient to satisfy a taxpayer's burden of proof. (*Appeal of GEF Operating, Inc.*, 2020-OTA-057P.)

Here, appellants primarily contend that they did not receive respondent's letter, dated July 21, 2023, requesting a response within 30 days. However, the record shows that respondent's letter was mailed to appellants' last known address,<sup>9</sup> and the issue of proper notice does not factor into appellants' burden of proof in this matter. Even after respondent attached to its opening brief the July 21, 2023 letter and elaborated on the substance of that letter (including the assertion that appellants' 2017 Form 540 did not show any excess charitable deductions available for carryover), appellants provided no documentation or other evidence to substantiate the additional itemized deductions claimed on their amended return. Thus, appellants have failed to show that they are entitled to a refund based on those additional itemized deductions.

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<sup>8</sup> A preponderance of evidence means that a party must establish by documentation or other evidence that the circumstances it asserts are more likely than not to be correct. (*Appeal of Belcher*, 2021-OTA-284P.)

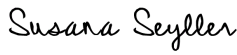
<sup>9</sup> Any notice shall be sufficient if it is mailed to a taxpayer's last known address. (R&TC, § 18416(b).) A notice sent to a taxpayer's last known address is sufficient even if the notice never actually reaches the taxpayer. (*Appeal of Goodwin* (97-SBE-003) 1997 WL 258474; *Appeal of Johnston* (83-SBE-238) 1983 WL 15609.) The last known address is the address that appears on the taxpayer's last return filed with respondent, unless the taxpayer has provided to respondent clear and concise written or electronic notification of a different address or respondent has an address it has reason to believe is the most current address for the taxpayer. (R&TC, § 18416(c).)

HOLDINGS

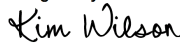
1. Appellants' claim for refund is timely.
2. Appellants have not established entitlement to the additional itemized deductions claimed for the 2018 taxable year.

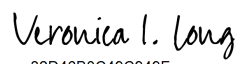
DISPOSITION

Respondent shall refund to appellant \$755.05, as previously agreed; in all other respects, respondent's action denying appellants' claim for refund is sustained.

DocuSigned by:  
  
 6FE2EBECC6F6481... For  
 Tommy Leung  
 Administrative Law Judge

We concur:

Signed by:  
  
 4E8E740EDB984CD...  
 Kim Wilson  
 Hearing Officer

Signed by:  
  
 32D46B0C49C949F...  
 Veronica I. Long  
 Administrative Law Judge

Date Issued: 10/1/2025