

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of:	)	OTA Case No. 241118090
<b>J. GONZALEZ</b>	)	
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**OPINION**

Representing the Parties:

For Appellant:	J. Gonzalez
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For Respondent:	John Ly, Attorney
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K. SHELTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Gonzalez (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant's claims for refunds of \$3,093.42 for the 2015 tax year, \$2,066 for the 2016 tax year, \$2,093 for the 2017 tax year, and \$2,112 for the 2019 tax year.

Appellant 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).

**ISSUES**

1. Whether the statute of limitations bars appellant's claim for credit or refund for the 2015 tax year.
2. Whether the statute of limitations bars appellant's claim for credit or refund for the 2016 tax year.
3. Whether the statute of limitations bars appellant's claim for credit or refund for the 2017 tax year.
4. Whether the statute of limitations bars appellant's claim for credit or refund for the 2019 tax year.

### FACTUAL FINDINGS

1. Appellant did not file timely California income tax returns for the 2015, 2016, 2017, and 2019 tax years.

#### The 2015 Tax Year

2. On April 18, 2017, FTB demanded that appellant file an income tax return for the 2015 tax year. Appellant did not respond to the demand. FTB then issued a Notice of Proposed Assessment (NPA) to appellant for the 2015 tax year based on information received from third parties. Appellant did not challenge the NPA, and made a payment of tax of \$753 for the 2015 tax year on September 30, 2020 pursuant to a Notice of State Income Tax Due.
3. On August 30, 2024, appellant filed a Form 540, California Resident Income Tax Return (return) for the 2015 tax year. On the 2015 return, appellant reported withholdings of \$3,861, a total tax liability of \$1,525, and an overpayment of \$2,336, which appellant requested be carried forward to pay estimated tax for the 2016 tax year.
4. FTB issued to appellant a statute of limitations notice on September 17, 2024, for the 2015 tax year, stating that FTB treated the return as a claim for refund and denied the claim due to the expiration of the statute of limitations.

#### The 2016 Return

5. On August 30, 2024, appellant filed a return for the 2016 tax year. On the 2016 return, appellant reported withholdings of \$3,157, estimated tax payments of \$2,336, a total tax liability of \$1,091, and an overpayment of \$4,402, which appellant requested be carried forward to pay estimated tax for the 2017 tax year.
6. FTB issued to appellant a notice on September 17, 2024, for the 2016 tax year stating that FTB treated the return as a claim for refund and denied the claim due to the expiration of the statute of limitations.

#### The 2017 Return

7. On August 30, 2024, appellant filed a return for the 2017 tax year. On the 2017 return, appellant reported withholdings of \$2,823, estimated tax payments of \$4,402, a total tax liability of \$730, and an overpayment of \$6,495, which appellant requested be carried forward to pay estimated taxes for the 2018 tax year.

8. FTB issued to appellant a notice on October 1, 2024, for the 2017 tax year stating that FTB treated the return as a claim for refund and denied the claim due to the expiration of the statute of limitations.

#### The 2019 Return

9. On August 30, 2024, appellant filed a return for the 2019 tax year. On the 2019 return, appellant reported withholdings of \$7,631, estimated tax payments of \$8,567, zero total tax liability, and an overpayment of \$10,949. FTB subsequently increased appellant's tax liability to \$5,249.
10. FTB issued to appellant a notice on September 18, 2024, for the 2019 tax year stating that FTB treated the return as a claim for refund and denied the claim due to the expiration of the statute of limitations.

#### Claims for Refund for All Tax Years

11. FTB accepted the returns and treated them as claims for refund of \$3,093.42, \$2,066, \$2,093, and \$2,112, for the 2015, 2016, 2017, and 2019 tax years, respectively.

#### Appellant's Appeal

12. In his appeal filed with OTA, appellant indicated that he is struggling to pay his mortgage and buy groceries, and that he needs the refund to pay his liabilities for subsequent tax years.
13. This timely appeal followed.

### DISCUSSION

If a taxpayer has an overpayment of an income tax liability, the amount of the overpayment may be credited against tax due for the taxable year and the balance may be refunded to the taxpayer. (R&TC, §§ 19002, 19301). However, R&TC section 19306 provides that no credit or refund will 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 within an extended due date; (2) four years from the due date for filing a return (determined without regard to any extension of time to file), if the return was not timely filed; or (3) one year from the date of the overpayment. (R&TC, § 19306(a).)

The taxpayer has the burden of proof in showing entitlement to a credit or refund and that the claim is timely. (Cal. Code Regs., tit. 18, § 30219(a); *Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) The language of the statute of limitations must be strictly

construed, and there is generally no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

Income tax withholdings are deemed paid on the original due date of the return. (R&TC, § 19002(c)(1).) Individual income tax returns are generally due on or before the 15th day of April following the close of the calendar year. (R&TC, § 18566.) OTA cannot overlook the untimeliness of a taxpayer's refund claim and can only grant relief if there is an exception to the statute of limitations. (See *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Exceptions to the statute of limitations for filing a refund claim include any period where a taxpayer is financially disabled, that is, unable to manage his or her financial affairs due to a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months, and the taxpayer has no spouse or other legally authorized person to act on the taxpayer's behalf. (R&TC, § 19316.)

Issue 1: Whether appellant's claim for credit or refund for the 2015 tax year is barred by the expiration of the statute of limitations.

Appellant's return for the 2015 tax year was due on April 15, 2016. (R&TC, § 18566.) Appellant filed his 2015 return on August 30, 2024; therefore, he did not file his 2015 return within the time prescribed under R&TC section 18567. Accordingly, the period within which appellant was required to file his claim for a credit or refund with respect to his 2015 tax year ended on the later of either (a) four years from the due date for filing the return, or (b) one year from the date of the overpayment. (R&TC, § 19306(a).)

Four years after the due date for filing the 2015 return was April 15, 2020; however, appellant filed his 2015 claim for credit or refund on August 30, 2024. Appellant's overpayment is from two sources: first, his withholdings of \$3,861 as reported on his 2015 return, which are deemed to have been paid on April 15, 2016, under R&TC sections 19002(c)(1) and 18566; and second, his tax payment of \$753 made on September 30, 2020. Appellant filed his claim on August 30, 2024, which is more than one year from both the date that his withholdings were deemed paid, April 15, 2016, and the date of the payment, September 30, 2020. Accordingly, appellant's claim for credit or refund for the 2015 tax year is untimely.

Appellant's failure to file a claim for refund within the period of limitations, for any reason, bars him from later receiving a refund. (See *Appeal of Estate of Gillespie, supra.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Jacqueline Mairghread Patterson Trust, supra.*) Therefore, appellant's

claim for refund for the 2015 tax year is barred under the statute of limitations described in R&TC section 19306(a).

Appellant does not dispute that he filed his claim for refund on August 30, 2024, which is after the expiration of the statute of limitations for the 2015 tax year. Instead, appellant asserts essentially that he is struggling to pay his mortgage and to buy groceries, and that he needs the disallowed overpayments for his financial needs. Appellant, however, does not provide any facts that would indicate that he had a medical or mental impairment that would qualify as a financial disability under R&TC section 19316. Therefore, appellant has not established he qualifies for any exception from the due date for a claim for refund.

Issue 2: Whether appellant's claim for credit or refund for the 2016 tax year is barred by the expiration of the statute of limitations.

Appellant's return for the 2016 tax year was due on April 15, 2017. (R&TC, § 18566.) Appellant filed his 2016 return on August 30, 2024; therefore, he did not file his 2016 return within the time prescribed under R&TC section 18567. Accordingly, the period within which appellant was required to file his claim for a credit or refund with respect to his 2016 tax year ended on the later of either (a) four years from the due date for filing the return, or (b) one year from the date of the overpayment. (R&TC, § 19306(a).)

Four years after the due date for filing the 2016 return was April 15, 2021; however, appellant filed his 2016 claim for credit or refund on August 30, 2024. Appellant's withholdings are deemed to have been paid on April 15, 2017. (R&TC, §§ 19002(c)(1), 18566.) Appellant filed his claim on August 30, 2024, which is more than one year from the date of his deemed payment of his withholdings. Accordingly, appellant's claim for credit or refund for the 2016 tax year is untimely.

Appellant's failure to file a claim for credit and refund within the period of limitations, for any reason, bars him from later receiving a refund. (See *Appeal of Estate of Gillespie, supra.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Jacqueline Mairghread Patterson Trust, supra.*) For these reasons, appellant's claim for credit and refund for the 2016 tax year is barred under the statute of limitations described in R&TC section 19306(a).

Appellant does not dispute that he filed his claim for refund on August 30, 2024, which is after the expiration of the statute of limitations for the 2016 tax year. Instead, appellant asserts essentially that he is experiencing financial difficulty. Appellant, however, does not provide any facts that would support a claim for an exception from the due dates stated above for a financial

disability based on medical or mental impairment under R&TC section 19316. Therefore, appellant has not established he qualifies for any exception from the due date for a claim for refund.

Issue 3: Whether appellant's claim for credit or refund for the 2017 tax year is barred by the expiration of the statute of limitations.

Appellant's return for the 2017 tax year was due on April 15, 2018. (R&TC, § 18566.) Appellant filed his 2017 return on August 30, 2024; therefore, he did not file his 2017 return within the time prescribed under R&TC section 18567. Accordingly, the period within which appellant was required to file his claim for a credit or refund with respect to his 2017 tax year ended on the later of either (a) four years from the due date for filing his return, or (b) one year from the date of the overpayment. (R&TC, § 19306(a).)

Four years after the due date for filing the 2017 return was April 15, 2022; however, appellant filed his claim for credit and refund on August 30, 2024. Appellant's withholdings are deemed to have been paid on April 15, 2018. (R&TC, §§ 19002(c)(1), 18566.) Appellant filed his claim on August 30, 2024, which is more than one year from the date of his deemed payment of his withholdings. Accordingly, appellant's claim for credit or refund for the 2017 tax year is untimely.

Appellant's failure to file a claim for credit and refund within the period of limitations, for any reason, bars him from later receiving a refund. (See *Appeal of Estate of Gillespie, supra*.) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Jacqueline Mairghread Patterson Trust, supra*.) For these reasons, appellant's claim for refund or credit for the 2017 tax year is barred under the statute of limitations described in R&TC section 19306(a).

Appellant does not dispute that he filed his claim for refund on August 30, 2024, which is after the expiration of the statute of limitations for the 2017 tax year. Instead, appellant asserts essentially that he is experiencing financial difficulty. Appellant, however, does not provide any facts that would support a claim for an exception from the due dates stated above for a financial disability based on medical or mental impairment under R&TC section 19316. Therefore, appellant has not established he qualifies for any exception from the due date for a claim for refund.

Issue 4: Whether appellant's claim for credit or refund for the 2019 tax year is barred by the expiration of the statute of limitations.

Appellant's return for the 2019 tax year was due on April 15, 2020. (R&TC, § 18566.) Appellant filed his 2019 return on August 30, 2024; therefore, he did not file his return within the time prescribed under R&TC section 18567. Accordingly, the period within which appellant was required to file his claim for a credit or refund with respect to his 2019 tax year ended on the later of either (a) four years from the due date for filing his 2019 return, or (b) one year from the date of the overpayment. (R&TC, § 19306(a).)

Four years after the due date for filing the 2019 return was April 15, 2024; however, appellant filed his claim for credit or refund on August 30, 2024. Appellant's withholdings are deemed to have been paid on April 15, 2020. (R&TC, §§ 19002(c)(1), 18566.) Appellant filed his refund claim on August 30, 2024, which is more than one year from the date of his deemed payment. Accordingly, appellant's claim for credit or refund for the 2019 tax year is untimely.

Appellant's failure to file a claim within the period of limitations, for any reason, bars him from later receiving a refund. (See *Appeal of Estate of Gillespie, supra.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Jacqueline Mairghread Patterson Trust, supra.*) For these reasons, appellant's claim for credit or refund for the 2019 tax year is barred under the statute of limitations described in R&TC section 19306(a).

Appellant does not dispute that he filed his claim for refund on August 30, 2024, which is after the expiration of the statute of limitations for the 2019 tax year. Instead, appellant asserts essentially that he is experiencing financial difficulty. Appellant, however, does not provide any facts that would support a claim for an exception from the due dates stated above for a financial disability based on medical or mental impairment under R&TC section 19316. Therefore, appellant has not established he qualifies for any exception from the due date for a claim for refund.

HOLDINGS

1. The statute of limitations bars appellant's claim for credit or refund for the 2015 tax year.
2. The statute of limitations bars appellant's claim for credit or refund for the 2016 tax year.
3. The statute of limitations bars appellant's claim for credit or refund for the 2017 tax year.
4. The statute of limitations bars appellant's claim for credit or refund for the 2019 tax year.

DISPOSITION

FTB's actions denying appellant's claims for refund are sustained.

Signed by:



L. Katrine Shelton  
Administrative Law Judge

We concur:

DocuSigned by:



Asaf Kletter  
Administrative Law Judge

DocuSigned by:



Erica Parker  
Hearing Officer

Date Issued: 10/1/2025