

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

In the Matter of the Appeal of:	)	OTA Case No. 241218158
<b>J. REYES</b>	)	
	)	
	)	
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**OPINION**

Representing the Parties:

For Appellant:	J. Reyes
For Respondent:	Rosemary Villasenor, Senior Legal Analyst

S. ELSOM, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Reyes (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of \$2,963 for the 2018 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).

**ISSUE**

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

**FACTUAL FINDINGS**

1. Appellant did not timely file a 2018 California income tax return.
2. On September 3, 2024, appellant filed an untimely 2018 California Resident Income Tax Return, reporting withholdings of \$5,923, total tax of \$2,960, and an overpayment of \$2,963, which appellant requested to be refunded to him. Respondent accepted appellant's return as filed and treated it as a claim for refund.
3. Respondent subsequently sent appellant a Statute of Limitations letter denying appellant's claim for refund due to the expiration of the statute of limitations.
4. This timely appeal followed.

### DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. The statute of limitations provides, in pertinent part, 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 for the year at issue (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 proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P (*Benemi*).)

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) The language of the statute of limitations is explicit and must be strictly construed. (*Benemi, supra.*) 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 owed in the first place. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Appellant filed his 2018 California income tax return, treated by respondent as a claim for refund, after the extension period to file expired on October 15, 2019. (R&TC, §§ 18566, 18567; Cal. Code Regs., tit. 18, §18657.) Thus, the first statute of limitations period does not apply. The original due date for filing the 2018 return was April 15, 2019, and the four-year statute of limitations expired four years later on April 15, 2023. (R&TC, §§ 18566, 19306(a).) Therefore, appellant's September 3, 2024 claim for refund is untimely under the second limitations period.

Regarding the one-year statute of limitations, the time for appellant to file a claim for refund is one year from the date of overpayment. Appellant's only payment for the 2018 tax year were withholding credits, which are deemed to be paid on the original due date of the return of April 15, 2019. (R&TC §§ 19002(c)(1), 19306(a).) The one-year statute of limitations expired one year later on April 15, 2020. Therefore, appellant's September 3, 2024 claim for refund is also barred under the one-year statute of limitations.

Appellant asserts that he did not timely file his claim for refund because he received "false" advice from a tax preparer who "manipulated" the filing of his federal returns to report an erroneous tax liability, which created a financial burden for appellant. Appellant further asserts that in the process of resolving the federal tax liability, he discovered that he was entitled to a state tax refund.

Appellant's arguments are reasonable cause type arguments. As stated above, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Jacqueline Mairghread Patterson Trust, supra.*) The language of the statute of limitations is explicit and must be strictly construed. (*Benemi, supra.*)

#### HOLDING

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

#### DISPOSITION

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

Signed by:



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Seth Elsom  
Hearing Officer

We concur:

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Erica Parker  
Hearing Officer

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Sheriene Anne Ridenour  
Administrative Law Judge

Date Issued: 9/18/2025