

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 241118131
N. BHASIN AND)	
H. KAMAL)	
)	
)	

OPINION

Representing the Parties:

For Appellants:	N. Bhasin
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For Respondent:	Rosemary Villasenor, Senior Legal Analyst
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T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, N. Bhasin and H. Kamal (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$33,293.70 for the 2019 taxable year.

Appellants 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

Is appellants' claim for refund barred by the statute of limitations?

FACTUAL FINDINGS

1. FTB received information that each appellant earned income sufficient to have a filing requirement for 2019. Because neither appellant filed a tax return for 2019, FTB issued separate Requests for Tax Return to each appellant.
2. After no response was received from either appellant, FTB issued Notices of Proposed Assessment (NPAs) to each appellant, which proposed tax, penalties, and interest. The NPAs went final, and FTB commenced collection action.
3. Appellants had withholdings of \$2,784 that were deemed paid on April 15, 2020. FTB collected payments of \$30,845.70 between July 21, 2022, and August 1, 2023, including

- a transfer of \$694.89 from appellants' 2020 taxable year; and payments of \$6,089.39 between October 2, 2023, and December 26, 2023.
4. On August 7, 2024, appellants filed a joint 2019 California Resident Income Tax Return reporting \$0 total tax.
 5. FTB accepted appellants' return as filed and treated it as a claim for refund. FTB refunded \$6,089.39 plus interest to appellants and denied appellants' claim for refund of \$33,293.70.¹
 6. Appellants filed this timely appeal.

DISCUSSION

R&TC section 19306 imposes a statute of limitations to file a claim for refund. 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 due date prescribed for filing the return (determined without regard to any extension of time for filing the return); or (3) one year from the date of the overpayment. The taxpayer has the burden of proof to show entitlement to a refund and that the claim for refund is timely. (*Appeal of Cornbleth*, 2019-OTA-408P; *Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.).)

The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*Appeal of Cornbleth, supra.*) There is generally no reasonable cause or equitable basis to suspend the statute of limitations. (*Appeal of Benemi Partners, L.P., supra.*) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) While fixed deadlines may appear harsh because they can be missed, the resulting occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Here, there is no dispute that appellants failed to file a timely return for the 2019 taxable year. Therefore, the statute of limitations began to run on the return's original due date of April 15, 2020, and expired four years later, on April 15, 2024. (See R&TC, §§ 19306(a), 18566.) Appellants filed a return on August 7, 2024, which is after the applicable four-year statute of limitations to file a claim for refund expired. Therefore, FTB is barred from refunding or crediting any overpayment for the 2019 taxable year under that provision.

The alternative one-year statute of limitations applies only to overpayments made within one year of the date the claim for refund is filed. (R&TC, § 19306(a).) For purposes of R&TC

¹ Payments and withholdings of \$33,629.70 made prior to August 7, 2022, less collection and lien fees of \$336.

section 19306, withholdings are treated as paid on the last day prescribed for filing the return. (R&TC, § 19002(c)(1).) Appellants' overpayments include withholding credits, which are treated as paid on April 15, 2020. With respect to that payment, the statute of limitations expired one year later, on April 15, 2021. FTB collected payments of \$30,845.70 prior to August 7, 2023, which were made more than one year prior to the date of appellants' claim for refund and are also barred by the statute of limitations. Appellants' payments of \$6,089.39 made after August 7, 2023, are not time-barred, and FTB properly refunded that amount plus interest.

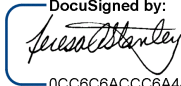
Appellants request tolling of the statute of limitations for three reasons: (1) the extraordinary circumstances of the COVID-19 pandemic and its impact on a business appellant N. Bhasin owned or managed; (2) appellants had difficulty obtaining copies of unspecified Forms 1099 from the issuer, which was beyond their control; and (3) appellants paid a significant amount. However, the circumstances and difficulties described by appellants do not toll or extend the statute of limitations for filing a claim for refund. Appellants' arguments are based on reasonable cause, which is not an exception to the statute of limitations. (See *Appeal of Benemi Partners, L.P.*, *supra*.)

HOLDING

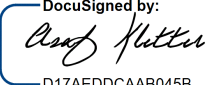
Appellants' claim for refund is barred by the statute of limitations.

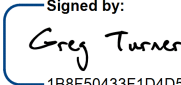
DISPOSITION

OTA sustains FTB's action denying appellants' claim for refund.

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Teresa A. Stanley
Administrative Law Judge

We concur:

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Asaf Kletter
Administrative Law Judge

Signed by:

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Greg Turner
Administrative Law Judge

Date Issued: 9/23/2025