

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
O. ALMODOVAR

) OTA Case No. 241118129
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OPINION

Representing the Parties:

For Appellant:

O. Almodovar

For Respondent:

Arathi Ramalingam, Attorney

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, O. Almodovar (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$5,162 for the 2019 tax year.

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals 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. On February 5, 2020, appellant filed a 2019 California Income Tax Return.
2. On February 12, 2024, FTB issued appellant an Unclaimed Nonwage Withholding Credits notice informing appellant of \$5,162 of unclaimed withholdings available to him.
3. On August 5, 2024, appellant filed an amended 2019 California Income Tax Return claiming the withholdings and requesting a refund in that amount.
4. FTB accepted the amended return as filed and treated it as a claim for refund. FTB denied the claim for refund on the basis that it was filed after the expiration of the statute of limitations. This timely appeal follows.

DISCUSSION

R&TC section 19306(a) requires a taxpayer to file their refund claim by the later of: (1) four years from the date the return is filed, if filed on or before the extended due date; (2) “four years from the last day 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 overpayment. 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.)

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is generally no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) Absent an exception, 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.*)

Appellant contends that he did not claim the withholding credits on his original return because he did not receive a form from the escrow company. Appellant also asserts he did not receive the Unclaimed Nonwage Withholding Credits notice until July 2024, and that when he received the notice and called FTB, he was advised to file an amended return to claim the withholding credits.

Appellant filed his original return on February 5, 2020, before the due date of the return. Thus, the applicable four-year statute of limitations period is four years from the last day prescribed for filing the return, or April 15, 2024.¹ (R&TC § 19306(a).) Appellant filed his amended return, which is treated as his claim for refund, on August 5, 2024, four months after the expiration of the four-year statute of limitations. Thus, appellant’s claim is untimely under the four-year statute of limitations period. Appellant’s claim is also untimely under the one-year statute of limitations period because appellant’s payments were solely withholdings, which are deemed paid on the original due date of the return, and appellant’s claim for refund was filed more than one year after that date. (Cal. Code Regs., tit. 18, § 19002(d)(1).)

Although appellant contends that he did not receive a form from his escrow company, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P., supra.*) A taxpayer’s untimely filing of a claim for any reason

¹ Due to the COVID-19 pandemic, FTB postponed the 2019 return due date from April 15, 2020, to July 15, 2020. (See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-3-state-postpones-tax-deadlines-until-july-15-due-to-the-covid-19-pandemic.html>.) However, this postponement did not change the original due date of April 15, 2020, upon which the four-year statute of limitations for refund claims is based. (*Appeal of Nguyen*, 2025-OTA-333P.)

bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*)

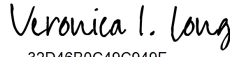
Regarding appellant’s contention that he did not receive the Unclaimed Nonwage Withholding Credits notice until July 2024, the Nonwage Withholding Credits notice was issued to appellant on February 12, 2024, prior to the expiration of the statute of limitations. Appellant asserts that he contacted FTB in July 2024 and was advised to file an amended return even though the statute of limitations had already expired. However, FTB does not have a duty to inform taxpayers of when the statute of limitations for claims for refund will expire. (*Appeal of Gleason* (86-SBE-113) 1986 WL 22735.) There is no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P., supra.*) Accordingly, appellant’s claim for refund is untimely and barred by the statute of limitations.

HOLDING

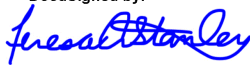
Appellant’s claim for refund is barred by the statute of limitations.


DISPOSITION

FTB’s denial of appellant’s claim for refund is sustained.

Signed by:

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Veronica I. Long
Administrative Law Judge

We concur:

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Teresa A. Stanley
Administrative Law Judge

DocuSigned by:

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Sheriene Anne Ridenour
Administrative Law Judge

Date Issued: 9/24/2025