

In the Matter of the Appeal of:) OTA Case No. 241117891
P. GRABRECK AND)
T. GRABRECK)
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1. Appellants untimely filed a joint California Resident Income Tax Return for the 2019 tax year on June 7, 2021, reporting an overpayment of tax of \$8,162. FTB accepted the return as filed and issued a refund of \$8,162.
2. On February 6, 2024, FTB sent a letter informing appellant P. Grabreck that FTB received nonwage withholding credits for the 2019 tax year that appellants did not claim on their 2019 tax return. FTB informed appellant P. Grabreck of the statute of limitations and advised him that FTB may not be able to allow a refund or credit if he did not respond in a timely manner.

3. On September 13, 2024, appellants filed an amended 2019 return to include additional nonwage withholding credits of \$9,524.
4. FTB treated the amended return as a claim for refund of \$9,524 and denied the claim due to the expiration of the statute of limitations.
5. Appellants filed this timely appeal.

DISCUSSION

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 last date prescribed 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. Tax returns for calendar year taxpayers are due on or before April 15th following the close of the calendar year. (R&TC, § 18566.) For purposes of R&TC section 19306, tax deducted and withheld during the tax year is deemed paid on the return due date (without regard to any extension of time for filing the return). (R&TC, § 19002(c)(1).) Taxpayers have 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.)

The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, *supra.*) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*) A statute of limitations promotes fairness as well as practical administration of an income tax policy. (*Rothensies v. Electric Battery Co.* (1946) 329 U.S. 296, 301.)

Appellants do not dispute that the claim for refund filed on September 13, 2024, was filed after the expiration of the statute of limitations. Rather, appellants provide reasonable cause arguments and request that their untimely claim for refund be allowed. Appellants assert that they contacted their former accountant and requested that he file an amended tax return soon after they received the letter from FTB that informed them of the additional unclaimed withholdings. However, due to a family tragedy that occurred just prior to receiving the letter, appellants did not follow up with the accountant. Appellants contend that they had to retain a new CPA to prepare the amended return that was filed on September 13, 2024.

Despite the difficulties appellants faced in filing their claim for refund, there is generally no reasonable cause or equitable basis for suspending the statute of limitation. (*Appeal of*

Benemi Partners, L.P., supra.) Appellants did not timely file their claim for refund within the statute of limitations; therefore, their refund is barred.

HOLDING

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

DISPOSITION

FTB's action denying appellants' claim for refund is sustained.

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Erica Parker
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Erica Parker
Hearing Officer

We concur:

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Sheriene Anne Ridenour
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Sheriene Anne Ridenour
Administrative Law Judge

DocuSigned by:
Sara A. Hosey
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Sara A. Hosey
Administrative Law Judge

Date Issued: 9/30/2025