

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 241017852
P. MARTIN AND)	
K. MARTIN)	
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OPINION

Representing the Parties:

For Appellants:	P. Martin and K. Martin
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For Respondent:	Vivian Ho, Attorney
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E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, P. Martin and K. Martin (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$7,243.38¹ for the 2017 tax year.

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

FACTUAL FINDINGS

1. Appellants did not file a timely California tax return for the 2017 tax year.
2. FTB issued appellant P. Martin a Demand for Tax Return (demand) for the 2017 tax year, stating that FTB's records indicated appellant P. Martin may have a filing requirement, but no return was on file. Appellant P. Martin did not respond to the demand.
3. FTB issued appellant P. Martin a Notice of Proposed Assessment (NPA) for the 2017 tax year that estimated appellant P. Martin's income based on wages, interest income, and

¹ FTB denied appellants' claim for refund of \$7,243.38, the total overpayment computed for the 2017 tax year. On appeal, appellants assert the amount they request to be refunded is \$4,466.38, which is the last payment they made for the 2017 tax year.

miscellaneous income reported to FTB by third parties. The NPA proposed to assess taxes, applicable penalties, and interest. Appellant P. Martin did not respond to the NPA; therefore, the NPA became final and payable.

4. On April 4, 2022, appellants made a payment of \$4,466.38 in satisfaction of their 2017 tax year account balance.
5. On July 15, 2024, appellants untimely filed a joint 2017 California tax return.
6. FTB accepted the return as filed and treated it as a claim for refund of \$7,243.38. FTB denied the claim for refund due to the expiration of the statute of limitations, and this timely appeal followed.

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. The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (*Appeal of Fischer (Dec'd)*, 2024-OTA-518P.)

The first four-year statute of limitations period does not apply here as appellants did not file their 2017 tax return within the extension period. The second four-year statute of limitations period expired on April 15, 2022, four years after the original due date of April 15, 2018, for the 2017 tax year. The one-year statute of limitations period expired on April 4, 2023, one year from the date of the last payment of \$4,466.38 for the 2017 tax year. As such, the later of the four-year or one-year statute of limitations was April 4, 2023. Since appellants filed their claim for refund on July 15, 2024, the claim for refund is barred by the statute of limitations.

Appellants assert that their tax preparer timely filed their taxes in April 2018, and that they only became aware that FTB did not receive their return upon receipt of FTB's correspondence. Appellants contend that they took steps to resolve the matter by calling FTB and meeting with their tax preparer but their tax preparer became unresponsive. Appellants explain that they paid the outstanding balance in April 2022, and found a new preparer to help resolve the issue and file a claim for refund. Based on these circumstances, appellants request a refund of the overpaid tax.

To prove a filing date that is different from FTB's records, taxpayers must provide evidence, such as a registered or certified mail receipt, showing the filing date. (*Appeal of*

Sotelo, 2025-OTA-035P.) Here, appellants provide no evidence in support of their assertion that the return was timely filed in April 2018. FTB's records indicate the only return filed by appellants for the 2017 tax year was the one filed on July 15, 2024, which, as determined above, was filed after the expiration of the statute of limitations.

Lastly, appellants' explanation of the difficulties they encountered with their tax preparer appear to be reasonable cause arguments. However, there is generally no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The language of the statute of limitations is explicit and must be strictly construed. (*Ibid.*) 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 properly owed. (*Ibid.*) Despite the difficulties appellants may have experienced with their tax preparer, a claim for refund filed after the statute of limitations is barred. Therefore, appellants' claim for refund is statutorily 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
Hearing Officer

We concur:

Signed by:

CB1F7DA3783141B...
Josh Lambert
Administrative Law Judge

Signed by:

004CD832E3254FD...
Seth Elsom
Hearing Officer

Date Issued: 9/17/2025