

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)	OTA Case No. 250118598
R. MASSEY AND)	
S. MASSEY)	
)	
)	

OPINION

Representing the Parties:

For Appellant:	R. Massey S. Massey
For Respondent:	Sarah J. Fassett, Attorney

K. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Massey and S. Massey (appellants) appeal actions by respondent Franchise Tax Board (FTB) denying appellants' claims for refund of \$1,806.49 for the 2014 tax year, \$1,130.20 for the 2015 tax year, \$957.84 for the 2016 tax year, and \$1,694.17 for the 2017 tax year.

Appellants elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05(b).)

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

Whether appellants' claims for refund are barred by the statute of limitations.

FACTUAL FINDINGS

2014 Tax Year

1. Appellants did not file a timely return for the 2014 tax year.
2. On December 16, 2015, FTB issued to appellant R. Massey a Demand for Tax Return (Demand) stating that it received information that he received income sufficient to

- require the filing of an income tax return. The Demand required that appellant R. Massey file a return or explain why no return was required by January 20, 2016.
3. On December 16, 2015, FTB also issued a Request for Tax Return (Request) to appellant S. Massey stating that it received information that she received income sufficient to require the filing of an income tax return. The Request required that appellant S. Massey file a return or explain why no return was required by January 20, 2016.
 4. FTB did not receive timely responses from appellants. Therefore, on February 16, 2016, FTB issued a Notice of Proposed Assessment (NPA) to appellant R. Massey estimating his tax liability based on income information reported from multiple sources. FTB also issued a February 16, 2016 NPA to S. Massey estimating her tax liability based on wage information that had been reported to FTB.
 5. On March 1, 2016, appellants filed an untimely joint California Resident Income Tax Return. Appellants reported a total tax of \$4,172. After applying withholding credits of \$3,074, appellants reported a total amount due of \$1,098. Appellants did not remit payment with their return.
 6. On August 6, 2018, FTB issued appellants a Notice of State Income Tax Due for tax of \$4,172, penalties of \$412.49, and applicable interest, less payments of \$3,074.¹ During the period February 15, 2020, through May 11, 2020, FTB received payments totaling \$1,658.69.²

2015 Tax Year

7. On March 1, 2016, appellants filed a timely joint return for the 2015 tax year. Appellants reported a total tax of \$2,755. After applying withholding credits of \$1,936, appellants reported a total amount due of \$819. Appellants did not remit payment with their return.
8. On August 6, 2018, FTB issued appellants a Notice of State Income Tax Due for a balance due of \$1,063.59 consisting of tax of \$2,755, penalties of \$167.18, and

¹ FTB subsequently found that it delayed in issuing the Notice of State Income Tax Due for 2014 and reduced a portion of the penalties and interest. The amount of the reduction is unclear, but it does not affect the outcome of this appeal.

² Appellants' payments include a \$637.74 credit, which FTB transferred from appellants' 2019 tax year account.

applicable interest, less payments of \$1,936.³ During the period May 11, 2020, through June 8, 2020, FTB received payments totaling \$1,117.77.

2016 Tax Year

9. Appellants did not file a timely return for the 2016 tax year.
10. On March 15, 2018, FTB issued a Demand to appellant S. Massey stating that it received information that she received income sufficient to require the filing of a return. The Demand required appellant S. Massey to file a return or explain why no return was required by April 18, 2018.
11. On May 3, 2018, FTB issued a Demand to appellant R. Massey stating that it received information that appellant R. Massey held a professional/business license, sales permit, or that he had employees in 2016, which indicate that he may have received income sufficient to require the filing of a return. The Demand required that appellant R. Massey file a return or explain why no return was required by June 6, 2018.
12. FTB did not receive responses from appellants. Therefore, on May 14, 2018, FTB issued an NPA estimating appellant S. Massey's tax liability based on income information reported from multiple sources. FTB also issued a July 2, 2018 NPA estimating appellant R. Massey's tax liability based on the average income of a taxpayer with the same professional/business license, sales permit, or employees working for them. FTB did not receive a timely response to the NPAs and both proposed assessments became final.
13. On October 9, 2018, appellants filed an untimely joint return for the 2016 tax year reporting a total tax of \$2,212. After self-assessing an underpayment of estimated tax of \$48, appellants reported a total amount due of \$2,260.⁴ Appellants did not remit payment with the return.
14. During the period August 15, 2018, through December 15, 2020, FTB received payments totaling \$3,987.26.

³ FTB subsequently found that it delayed in issuing the Notice of State Income Tax Due for 2015, and reduced a portion of the penalties and interest. The amount of the reduction is unclear, but it does not affect the outcome of this appeal.

⁴ Appellants claimed zero withholding credits and zero estimated tax payments for the 2016 tax year.

2017 Tax Year

15. On November 9, 2018, appellants filed an untimely joint return for the 2017 tax year reporting a tax liability of \$3,305.⁵ Appellants also self-assessed an underpayment of estimated tax penalty of \$73. Appellants did not remit payment with their return.
16. On January 1, 2019, FTB issued a Notice of Tax Return Change – Revised Balance imposing a late filing penalty of \$826.25, and applicable interest. FTB also reduced the estimated tax penalty from \$73 to \$63.
17. FTB collected payments totaling \$5,082.12 during the period January 11, 2019, and January 15, 2022. On January 12, 2022, FTBs also transferred a payment credit of \$357.51 from appellants' 2020 tax year account to appellants' 2017 tax year account. After transferring the credit, FTB refunded to appellants payments totaling \$772.22, which represents the last three payments appellants made during the period January 3, 2022, through January 15, 2022.

Claims for Refund

18. On September 3, 2024, appellants filed amended returns, which FTB accepted as claims for refund for the 2014 through 2017 tax years. In each case, FTB denied appellants' claim for refund due to the expiration of the statute of limitations.
19. This timely appeal followed.

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 within the extended filing period 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 in showing entitlement to a refund and that the claim for refund is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*Appeal of Cornbleth*, 2019-OTA-408P.) There is no reasonable cause or equitable basis to suspend the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

⁵ Appellants claimed zero withholding credits and zero estimated tax payments for the 2017 tax year.

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, appellants failed to file timely returns for the 2014, 2016, and 2017 tax years. Therefore, the four-year statute of limitations to file a claim for refund for each of these years began to run on the original due date of the return and expired four years later. For the 2014 tax year, the due date for filing a return was April 15, 2015, and the four-year statute of limitations expired on April 15, 2019. For the 2016 tax year, the due date for filing a return was April 15, 2017, and the four-year statute of limitations expired on May 17, 2021.⁶ For the 2017 tax year, the due date for filing a return was April 15, 2018, and the four-year statute of limitations expired on April 15, 2022. As to 2015, appellants filed a timely return on March 1, 2016. As such, the statute of limitations began to run on the return's original due date (April 15, 2016) and expired on July 15, 2020.⁷ In each case, appellants filed their claim for refund on September 3, 2024, well after the four-year statute of limitations expired. Accordingly, FTB is barred by the four-year statute of limitations from refunding or crediting any overpayment for the 2014, 2015, 2016, and 2017 tax years.

The alternative one-year statute of limitations applies only to payments made within one year of the date the claim is filed. Payments made via withholding are deemed paid as of the original due date of the return. (R&TC, § 19002(c)(1), (d)(2).) For 2014, and 2015, appellants made payments in the form of withholding credits, which were deemed paid April 15, 2015, and April 15, 2016, respectfully. Appellants also made a series of payments for each tax year, the most recent of which includes payments made on the following dates: May 11, 2020, for 2014; June 8, 2020, for 2015; December 15, 2020, for 2016; and January 15, 2022, for 2017. As discussed above, appellants filed claims for refund on September 3, 2024, which is more than one year after appellants' most recent payment for each tax year at issue. Accordingly, the

⁶ Due to the COVID-19 state of emergency, FTB was authorized under R&TC section 18572 to postpone certain tax-related deadlines. (See *Appeal of Bannon*, 2023-OTA-096P.) Pursuant to this authority, FTB postponed the deadline to file a claim for refund for the 2016 tax year to May 17, 2021. (See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-may-17-2021.html>.)

⁷ Due to the COVID-19 state of emergency, FTB was authorized under R&TC section 18572 to postpone certain tax-related deadlines. (See *Appeal of Bannon*, *supra*.) Where an applicable statute of limitations to file a claim for refund expired between the period of March 12, 2020, to July 15, 2020, FTB considered a claim timely if filed on or before July 15, 2020. (See FTB Notice 2020-02.)

claims for refund for the 2014, 2015, 2016, and 2017 tax years are barred entirely under the one-year statute of limitations.


On appeal, appellants assert that they filed amended returns before the statute of limitations expired. However, appellants have not provided any evidence that they filed timely claims for refund. As such, appellants have not met their burden of proof. (*Appeal of Jacqueline Mairghread Patterson Trust, supra.*)

HOLDING

Appellants' claims for refund are barred by the statute of limitations.

DISPOSITION

FTB's actions denying appellants' claims for refund for the 2014, 2015, 2016, and 2017 are sustained.

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Keith T. Long
Administrative Law Judge

Date Issued: 10/2/2025