

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 250419238
R. SUTTON)	
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OPINION

Representing the Parties:

For Appellant:	R. Sutton
For Respondent:	David C. Cortez, Associate Government Program Analyst

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Sutton (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$4,539.45 for the 2018 tax year.

Appellant 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).) 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. Appellant did not timely file a California tax return for the 2018 tax year.
2. After appellant failed to respond to a Demand for Tax Return, FTB issued a Notice of Proposed Assessment (NPA), which estimated appellant's total income and tax liability for the 2018 tax year based on information reported by third parties (i.e., wage income, dividend income, interest income). The NPA also proposed to assess penalties and interest. Appellant did not respond to the NPA; therefore, the NPA became final and payable.

3. On July 30, 2021, FTB received a payment from appellant in full satisfaction of appellant's 2018 account balance.
4. On December 24, 2024, appellant untimely filed a California Resident Income Tax Return for the 2018 tax year.
5. FTB accepted the return as filed and treated it as a claim for refund.
6. 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.)

Appellant does not dispute that the 2018 tax return filed on December 24, 2024, was filed outside of the statute of limitations prescribed in R&TC section 19306(a). Rather, appellant requests leniency and understanding because he experienced a variety of personal difficulties in 2019 that caused him to fall behind in timely filing his 2018 tax return. Appellant asserts that paperwork necessary to file his return was disposed of by other people and he needed to track down the information necessary to file his return. Appellant contends that his tax liability and estimated payments were timely paid and he would have been entitled to a refund if he had timely filed his return. For these reasons, appellant requests the claim for refund be granted despite the fact that it was filed outside of the statute of limitations.

There is 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.*) Therefore, appellant's claim for refund is barred by the statute of limitations.

HOLDING

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

DISPOSITION

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

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Erica Parker
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Erica Parker
Hearing Officer

Date Issued: 10/7/2025