

3. After not receiving a response to the Request, on October 16, 2020, FTB sent a Notice of Proposed Assessment (NPA) proposing total tax of \$10,177, a late filing penalty of \$2,521.50, and applicable interest. When appellant did not respond to the NPA by the deadline of December 15, 2020, the NPA became final and payable.
4. On April 7, 2021, FTB sent appellant a Final Notice Before Levy and Lien reflecting a total amount due of \$13,914.29, which included tax of \$10,177, the late filing penalty of \$2,521.50, plus applicable interest.
5. FTB received payments of \$13,914.29 on April 11, 2021, and \$6,256 on March 28, 2022.²
6. On July 23, 2023, appellant passed away.
7. On March 13, 2024, FTB received appellant's 2018 Return³ reporting total tax and tax due of \$6,432 and self-assessed interest and penalties of \$2,638. FTB accepted the return as filed and treated it as a claim for refund of \$11,298.59.
8. On May 6, 2024, FTB sent appellant a Statute of Limitations letter denying appellant's claim for refund.
9. This timely appeal followed.
10. In response to appellant's appeal, FTB's July 8, 2024 letter to appellant's executor and trustee explains that the statute of limitations may be suspended for financial disability if certain requirements are met and provides FTB Form 1564 Financial Disability – Suspension of the Statute of Limitations.
11. On July 23, 2024, appellant submits a complete Form 1564 which includes a statement by the physician that appellant suffered from a disability lasting greater than 12 months that prevented appellant from managing financial affairs from March 4, 2021, through July 23, 2023.
12. On July 28, 2025, FTB provides appellant's 2018 Federal Account Transcript which shows that the 2018 Federal Income Tax Return was secured by the IRS on June 4, 2024.

² The April 11, 2021 payment was made by appellant's authorized representative. The authorized representative had authority to make payments and file returns on appellant's behalf since December 2016. It is unclear whether the March 28, 2022 payment was made by appellant or her authorized representatives.

³ The 2018 Return was signed on February 16, 2024.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. R&TC section 19306(a) provides that no credit or refund may 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 due date for filing a return (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. (Cal. Code Regs., tit. 18, § 30219(a); *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.*)

Here, appellant's 2018 return, which was signed on February 16, 2024, and received by FTB on March 13, 2024, is treated as appellant's claim for refund. The first four-year statute of limitations is not applicable since appellant did not timely file a return within the extension period. The second four-year statute of limitations period for appellant's refund claim expired on April 15, 2023, four years from the original due date of the 2018 Return, April 15, 2019. (See R&TC, §§ 18566, 19306(a).) Appellant's refund claim was signed and received by FTB after the four-year statutory period expired for the tax year at issue.

The one-year statute of limitations period expired one year from the date of appellant's overpayments. For the two payments made towards the 2018 tax year account, appellant was required to file corresponding refund claims within one year of each payment, or by April 11, 2022, and March 28, 2023, respectively. Appellant's claim for refund was filed after the applicable one-year statutory period expired for both payments. Because appellant did not timely file a claim for refund within the four-year or one-year statutory periods for the tax year at issue, appellant's claim for refund is time barred.

For claims for refund, the law distinguishes between two types of payments resulting from FTB's involuntary collection actions (e.g., liens, levies, or withholding orders): "overpayments," which are subject to the provisions of R&TC section 19306(a), and "overcollections," which may be returned to the taxpayer after the statute of limitations for claiming a refund has expired. (*Appeal of Cornbleth*, 2019-OTA-408P.) "[T]here is a narrow

exception where the statute of limitations provisions do not apply to the return of payments that exceed what FTB is legally allowed to collect and were the result of ‘overcollection.’ An ‘overcollection’ occurs when the amount collected exceeds the amount actually due under the law as the result of clerical or mechanical error.” (*Ibid.*)

Amounts *voluntarily* paid before a return is filed are not “overcollections” which may be refunded to the taxpayer after the statute of limitations for claiming a refund has expired. Rather, the amount *voluntarily* paid by appellant in excess of the tax liability is an “overpayment” which is subject to the statute of limitations. FTB could not determine the amount to be refunded to appellant until a return reporting the proper amount of tax due for the tax year was filed. Even though appellant paid amounts in excess of the tax owed (as reflected on the NPA and Final Notice Before Levy and Lien and as reported by appellant on the subsequently filed return for the tax year at issue), a credit or refund for the overpayments is still barred by the statute of limitations if a claim is not timely filed. (*Appeal of Benemi Partners, L.P., supra.*) The statute of limitations for refund claims must be strictly construed, unless an exception applies. (*Ibid.*)

The time for filing a claim for refund may be extended if a taxpayer is “financially disabled” as defined in R&TC section 19316(b). (R&TC, § 19316(a); *Appeal of the Estate of Gillespie, supra.*) The running of the period for filing a claim for refund pursuant to R&TC section 19306 is suspended if: (1) “an individual taxpayer is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months; and (2) there is no spouse or other legally authorized individual to act on the taxpayer’s behalf in financial affairs. (R&TC, § 19316(b); *Appeal of Estate of Gillespie, supra.*) While appellant provided FTB Form 1564, including the required physician’s affidavit establishing their impairment, appellant had two authorized representatives to handle appellant’s financial affairs as early as December 13, 2016, and thus the requirement in R&TC section 19316(b)(2) is not met. OTA finds that appellant has not established financial disability, and the statute of limitations is not tolled.

Here, appellant argues that someone prepared an original filing and paid the tax liability within the one-year statute of limitations. Additionally, appellant argues that the 2018 Return sent to FTB may have been lost in the mailroom.

If a return or claim for credit or refund required by law to be filed with the state or state agency on or before a specified date is filed with a state agency through the U.S. mail or through a bona fide commercial delivery service, as determined by the state or the state agency

addressee, properly addressed with postage prepaid, it shall be deemed filed on the date shown by the cancellation mark stamped on the envelope. (Gov. Code, § 11003; see also R&TC, § 21027.) Taxpayers attempting to prove that a paper return was timely mailed would have to show evidence, such as a registered or certified mail receipt, that the return was timely mailed. (*Appeal of Fisher*, 2022-OTA-337P; Cal. Code Regs., tit. 18, § 30219(a).)


Appellant provided no evidence to support their argument. The evidence shows that appellant signed the 2018 Return on February 16, 2024, and that it was received by FTB on March 13, 2024. Additionally, the IRS transcript shows that the federal return was not received when appellant claimed it would have been filed in 2022. A taxpayer’s failure to file a claim for refund by the applicable due date, for whatever reason, bars them from a later claim. (*Appeal of Estate of Gillespie*, *supra*.) The language of the statute of limitations must be strictly construed, and there is no reasonable cause basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P.*, *supra*.) Accordingly, appellant’s claim for refund is untimely.

HOLDING

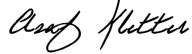
Appellant has not established a legal basis to suspend the statute of limitations on the claim for refund filed for the 2018 tax year.


DISPOSITION

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

Signed by:

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Kim Wilson
Hearing Officer

We concur:

DocuSigned by:

B17AEDBGAAB045B...
Asaf Kletter
Administrative Law Judge

DocuSigned by:

0CC6C6ACCC6A44D...
Teresa A. Stanley
Administrative Law Judge

Date Issued: 10/30/2025