

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
M. AMIN AND) OTA Case No. 231214896
N. AMIN)
_____)

OPINION

Representing the Parties:

For Appellants: M. Amin
S. Amin

For Respondent: Jeffrey Gates, Attorney
Topher Tuttle, Attorney

S. BROWN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Amin (appellant-husband) and N. Amin (collectively, appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claims for refund of \$7,173.55 for the 2017 tax year and \$5,387.68 for the 2018 tax year.

Office of Tax Appeals (OTA) Panel Members Erica Parker, Michael F. Geary, and Suzanne B. Brown held a virtual oral hearing for this matter on August 21, 2025. At the conclusion of the hearing, the record was closed, and this matter was submitted for an opinion pursuant to California Code of Regulations, title 18, section 30209(b).

ISSUE

Whether appellants' claims for refund for the 2017 and 2018 tax years are barred by the statute of limitations.

FACTUAL FINDINGS

1. At all times relevant here, appellants were Florida residents who owned a residential property in Escondido, California (Escondido residence), where their daughter resided.
2. Through its Integrated Non-Filer Compliance Program, FTB obtained information that appellant-husband paid mortgage interest in 2017 and 2018 on the Escondido residence, which indicated income sufficient to trigger a filing requirement.

3. On November 3, 2020, FTB issued to appellant-husband a Request for Tax Return (Request) for the 2017 tax year, which FTB mailed to the Escondido residence. The Request asked that appellant-husband respond by December 9, 2020, and file a 2017 tax return, provide evidence he had already filed a 2017 tax return, or return a questionnaire to indicate he did not have a filing requirement. FTB did not receive a response to the Request.
4. On February 10, 2021, FTB issued to appellant-husband a Notice of Proposed Assessment (NPA) for the 2017 tax year, which FTB mailed to the Escondido residence. This NPA estimated appellant-husband's income for the 2017 tax year and proposed tax of \$4,813, a late-filing penalty of \$1,203.25, and applicable interest. FTB did not receive a timely protest to the 2017 NPA, and it became final and payable.
5. On May 18, 2021, FTB issued to appellant-husband a Demand for Tax Return (Demand) for the 2018 tax year, which FTB mailed to the Escondido residence. FTB did not receive a response to the Demand.
6. On July 30, 2021, FTB issued to appellant-husband an NPA for the 2018 tax year, which FTB mailed to the Escondido residence. This NPA estimated appellant-husband's income for the 2018 tax year and proposed tax of \$3,162, a late-filing penalty of \$790.50, a demand penalty, and a filing enforcement fee of \$97.00, and applicable interest. FTB did not receive a timely protest to the 2018 NPA, and it became final and payable.
7. In November 2021, FTB sent mail to appellant-husband at the Escondido residence that was returned to FTB as undeliverable. As a result of the returned mail, FTB researched and obtained a residential address for appellants in Florida. On December 13, 2021, FTB issued to appellant-husband a Final Notice Before Levy and Lien (Final Notice), which FTB mailed to the residential address in Florida. The Final Notice shows an Account Balance Summary totaling \$7,390.59 for the 2017 tax year (including a collection fee of \$316) and \$5,349.12 for the 2018 tax year. The Final Notice included FTB's website, ftb.ca.gov, and provided information that stated, in part, "If you think you do not owe this amount, call [phone number for FTB]."
8. On April 27, 2022, FTB issued to appellant-husband's bank an Order to Withhold Personal Income Tax (OTW) totaling \$12,877.23 for the 2017 and 2018 tax years. The OTW reflects appellant-husband's Florida address, and contains a page that instructs the bank to provide the page to the taxpayer; the page states in part, "We issued this order to the addressee to enforce payment of an amount due for California personal

- income tax,” and provides telephone numbers for contacting FTB and the Taxpayers’ Rights Advocate.
9. The \$12,877.23 was transferred from appellant-husband’s bank to FTB on May 31, 2022.
 10. On September 15, 2023, appellants filed joint California nonresident or part-year resident income tax returns for the 2017 and 2018 tax years, reporting no California taxable income. FTB abated the late-filing penalties for both tax years, the demand penalty for the 2018 tax year, and the filing enforcement fee for the 2018 tax year. FTB treated the returns as claims for refund of \$7,173.55 for the 2017 tax year and \$5,387.68 for the 2018 tax year.
 11. In notices dated October 16, 2023, FTB denied appellants’ claims for refund on the basis that the claims were barred by the statute of limitations.
 12. Appellants filed this timely appeal with OTA.

DISCUSSION

R&TC section 19306 imposes a statute of limitations to file a claim for refund. R&TC section 19306(a) provides, in part, 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 showing entitlement to a refund and that the claim for refund is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P; see Cal. Code Regs., tit. 18, § 30219(a).) The burden of proof is by a preponderance of the evidence. (Cal. Code Regs., tit. 18, § 30219(b).)

The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*Appeal of Cornbleth*, 2019-OTA-408P.) A taxpayer’s failure to file a claim for refund, for whatever reason, within the statutory period bars the taxpayer from doing so later, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*)

FTB accepted appellants’ 2017 and 2018 returns as filed, and there is no dispute that appellants did not owe the tax. Thus, the issue concerns application of the statute of limitations. Here, the first four-year statute of limitations period does not apply because appellants did not

file returns within the extended filing periods for either the 2017 or 2018 tax years. For the second four-year statute of limitations period, four years from the original due date of the 2017 return was April 15, 2022, and four years from the original due date of the 2018 return was April 15, 2023. Under the one-year statute of limitations, appellants were required to file the refund claims no later than May 31, 2023, which is one year from the date of appellants' last payment to FTB. Appellants did not file their refund claims until September 15, 2023, which is after both the four-year and one-year statutes of limitations expired.

Appellants allege that they did not receive any of the notices that FTB addressed to the Escondido residence; appellants' daughter testified that she resided at that address but did not receive any of the FTB mailings.¹ Appellants argue that the notices should have been sent via registered mail. Appellants argue that the first time they learned of liabilities was when appellant-husband received a garnishment notice from his bank on May 13, 2022. Appellant-husband acknowledges that prior to that date, he had received a notice from FTB that was mailed to him at the Florida residential address, but he states that he did not know what FTB was because he had never previously dealt with FTB, and the notice contained no description of what FTB was or what the requested payment was for, and thus he was concerned that the notice was an attempted fraud/scam.

Regarding the notices mailed to the Escondido residence, R&TC section 18416(a) and (b) provide that any notice mailed to a taxpayer by first class mail postage prepaid shall be sufficient if mailed to the taxpayer's last known address. The last known address shall be the address that appears on the taxpayer's last return filed with FTB, unless the taxpayer has provided to FTB clear and concise written or electronic notification of a different address, or FTB has an address it has reason to believe is the most current address for the taxpayer. (R&TC, § 18416(c).) Notices sent via first class mail to the taxpayer's last known address are considered sufficient notification, even if not received by the taxpayer. (*Appeal of Goodwin* (97-SBE-003) 1997 WL 258474.) Here, because appellants had not previously filed a California tax return, FTB initially had reason to believe that the Escondido residence, for which appellant-husband paid the mortgage interest, was his most current address. FTB's receipt of the returned mail in November 2021 notified FTB that the Escondido residence was not appellant-husband's most current address; FTB obtained appellants' Florida address by December 2021, and mailed the December 13, 2021 Final Notice to that address. Therefore,

¹ Appellants argue that FTB's records show at least three instances of mail returned as undeliverable. FTB's exhibit titled "Returned Mail Data" for appellant-husband shows returned mail on the following dates: November 18, 2021; December 31, 2021; and December 31, 2023. It is unclear from the record what the December 31, 2021 and December 31, 2023 returned mailings were.

the notices FTB sent to appellant-husband at both the Escondido address and the Florida address were mailed to his last known address or an address FTB had reason to believe was the most current address, and thus satisfied the notice requirements of R&TC section 18416.

Moreover, appellant-husband acknowledges that weeks prior to his receipt of a notice from his bank in mid-May 2022, he received a notice from FTB that was mailed to him in Florida.² Thus, appellant-husband actually received notice from FTB more than a year prior to expiration of the one-year statute of limitations on May 31, 2023.

While OTA is sympathetic to appellants' position, there is no legal basis to extend the statute of limitations. As noted above, the statute of limitations for filing a claim for refund must be strictly construed, and there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P., supra.*)

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

HOLDING

Appellants' claims for refund for the 2017 and 2018 tax years are barred by the statute of limitations.

DISPOSITION

FTB's actions are sustained.

Signed by:

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Suzanne B. Brown
Administrative Law Judge

We concur:

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Erica Parker
Hearing Officer

DocuSigned by:

1A9B52EF88AC4C7...
Michael F. Geary
Administrative Law Judge

Date Issued: 10/23/2025

² Appellant-husband did not describe or specify this notice he received from FTB.