

3. When FTB did not receive a tax return or a protest within the specified time, the NPA became due and collectible.
4. FTB imposed a collection cost recovery fee of \$362. FTB received a payment of \$300 on August 14, 2024, and a payment of \$610.61 on September 20, 2024.
5. On September 15, 2024, appellants filed their 2019 California income tax return. Appellants reported total tax of \$6,915, California income tax withholding credits of \$14,909, an extension payment of \$7,000 made on July 15, 2020, and excess state disability insurance of \$20, claiming an overpayment of \$15,014. Appellants requested that \$7,507 of the overpayment be applied to their 2020 estimated taxes.
6. FTB processed the return and treated it as a claim for refund of \$15,542.61.¹ FTB refunded \$910.61 to appellants and denied the remaining refund claim of \$14,632.
7. Appellants filed this timely appeal.

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 or made if a claim for refund is not filed by the taxpayer 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 of the return (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. For purposes of the one-year statute of limitations, estimated tax payments and withholdings are deemed paid on the original due date of the return. (R&TC, § 19002(c)(1), (2).) The taxpayer has the burden of proof to establish entitlement to a refund and that the refund claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Cornbleth*, 2019-OTA-408P.) Absent an exception, a taxpayer's untimely filing of a claim for any reason bars a refund.² (*Appeal of Benemi Partners, L.P., supra.*) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) The statute of limitations bars an untimely claim for refund even when it is shown that the tax was not owed in

¹ Appellants paid \$22,819.61 (withholding credits of \$14,909 and other payments of \$7,910.61) from which FTB subtracted the tax of \$6,915 and the collection cost recovery fee of \$362 for a total claimed refund of \$15,542.61.

² Though not applicable here, financial disability due to a medically determinable physical or mental impairment is an example of an exception that may suspend the general statute of limitations period for refund claims. (R&TC, § 19316; *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

the first instance. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional unfairness is necessary to allow for a more workable tax enforcement system and is redeemed by the clarity imparted. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellants' 2019 tax return, which was filed on September 15, 2024, is treated as a claim for refund. Since appellants untimely filed their 2019 tax return outside the automatic six-month extension period, the first four-year statute of limitations is inapplicable. Under the second four-year statute of limitations, appellants were required to file a refund claim no later than April 15, 2024,³ which is four years from the date appellants were required to file the return. Appellants did not file their claim for refund until September 15, 2024, which is after the second four-year statute of limitations period expired.

The alternative one-year statute of limitations period expired one year from the date of appellants' overpayments. Appellants' tax withholding credits for the 2019 taxable year were deemed paid on April 15, 2020; therefore, the corresponding look-back period expired one year later, on April 15, 2021. (R&TC, § 19002(c)(1).) Additionally, for appellants to obtain a refund or credit of the \$7,000 extension payment made on July 15, 2020, appellants were required to file a refund claim no later than July 15, 2021. (R&TC, § 19306(a).) The payments received by FTB on August 14, 2024, and September 20, 2024, totaling \$910.61, are within the one-year statute of limitations period, and were properly refunded to appellants. The remaining payments are outside of the statute of limitations and are therefore barred.

Appellants assert that the statute of limitations should not apply as they are not asking for a refund but simply request that the overpayment from the 2019 taxable year be applied as a credit to their 2020 taxable year. However, appellants' request is barred under the plain language of R&TC section 19306(a), which specifically prohibits both refunds and *credits* unless the claim for refund or credit is made within the applicable statute of limitations, as discussed above. (*Italics added.*)

Appellants also state that they were unable to work with their accountant to file a timely tax return, so they remitted an extension payment, but overestimated the taxes owed for the 2019 taxable year. On that basis, appellants ask for an exception to the statute of limitations bar. However, there is no reasonable cause exception or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P., supra.*) Moreover, appellants' asserted difficulties working with their accountant is also a reasonable cause argument, which is not a

³ FTB's COVID-19 related postponement of the 2019 return filing deadline to July 15, 2020, did not change the original statutory due date for filing a return, upon which the second four-year statute of limitations for refund claims is based. (*Appeal of Nguyen*, 2052-OTA-333P.)

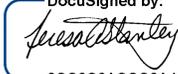
basis for suspending or extending the refund statute of limitations. (*Ibid.*) Neither ill health of a taxpayer nor any other unfortunate circumstance can extend the statute of limitations for filing a claim for refund. (*Appeal of Estate of Gillespie, supra.*) Appellants did not timely file a refund claim within the one-year or four-year statute of limitations periods; therefore, their refund claim is barred.

HOLDING

Appellants' claim for refund for the 2019 taxable year is barred by the statute of limitations.

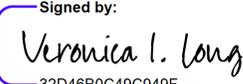
DISPOSITION

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

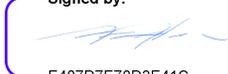
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Teresa A. Stanley
Administrative Law Judge

We concur:

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Veronica I. Long
Administrative Law Judge

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Hans Famularo
Administrative Law Judge

Date Issued: 11/3/2025