



stemming from an error in the amount of tax appellants reported on the return, a late filing penalty of \$1,567.25, an underpayment of estimated tax penalty of \$117, and interest and fees of \$570.87, for a total additional amount due of \$2,381.12. On the same date, respondent also sent appellants a Notice of Tax Return Change – Revised Balance and State Income Tax Balance Due Notice regarding the 2018 return, imposing a late payment penalty of \$771.68, underpayment of estimated tax penalty of \$231, interest and fees of \$276.37, for a total additional amount due of \$1,279.05.

4. On November 4, 2019, appellants remitted the balance due for both years.
5. On May 9, 2024, appellants filed an amended 2017 California Resident Income Tax Return and an amended 2018 California Resident Income Tax Return both with married filing jointly filing status, reporting overpayments of \$2,309 and \$3,973, respectively, on the basis that social security income was not excluded on the originally filed returns.
6. Respondent processed the returns, reducing appellants' tax liabilities and concomitant penalties, and treating both amended returns as claims for refund.
7. On July 15, 2024, respondent issued Statute of Limitations notices, denying appellants' claims for refund for the 2017 and 2018 tax year due to the expiration of the statute of limitations.
8. This timely appeal followed.

#### DISCUSSION

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)-(b); *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Here, appellants untimely filed their original 2017 return. Consequently, the first limitations period does not apply. The second limitations period expired four years from the due date of the original return, on April 15, 2022. (See R&TC, §§ 18566, 19306(a).) Because appellants did not file their claim for refund until May 9, 2024, it is untimely under the second limitations period.

Under the one-year statute of limitations, the deadline for appellants to file a claim for refund is one year from the date of the overpayment. Here, appellants made their last payment

for the 2017 tax year on November 4, 2019. However, their claim for refund was not filed until May 9, 2024, well after the expiration of the one-year statute of limitations.

Appellants timely filed their 2018 return on October 15, 2019. Because the original return was timely filed, the applicable four-year statute of limitations period extends from the date of filing, which resulted here in the statute of limitations expiring on October 15, 2023. Appellants' claim for refund was not filed until May 9, 2024. Appellants made their last payment for the 2018 tax year on November 4, 2019. However, because appellants' claim for refund was not filed until May 9, 2024, the one-year statute of limitations had also expired.

Appellants assert that respondent failed to properly review their returns upon filing and consequently improperly imposed tax on their social security benefits. Appellants assert the error was obvious and any review by respondent would have recognized the error and made affirmative adjustments to their tax liabilities. The implication being that had respondent examined the returns when filed adjustments would have been made and appellants' claims would have been unnecessary. While not specifically referenced by appellants, their argument finds superficial support in R&TC section 19032, which provides that "[a]s soon as practicable after a return is filed, [respondent] *shall examine* it and shall determine the correct amount of tax." (Italics added.)

While section 19032 confers authority on respondent to examine returns (see *Dicon Fiberoptics, Inc. v. Franchise Tax Bd.* (2012) 53 Cal.4th 1227, 1234), appellant cites—and OTA has found—no support for the argument that the statute confers a *duty* on respondent to conduct an examination of each return filed. California's income tax system is based on the fundamental attribute of voluntary compliance, which places on the taxpayer the obligation to file returns, make initial calculations, and make timely and accurate payments for the taxes they owe. (See R&TC, § 18501.) Penalties and strict timelines exist to encourage accurate and timely compliance. "The Government has millions of taxpayers to monitor, and our system of self-assessment in the initial calculation of a tax simply cannot work on any basis other than one of strict filing standards." (*United States v. Boyle* (1985) 469 U.S. 241, 249.) Once a return is filed, both respondent and taxpayers are provided statutorily prescribed windows within which errors can be discovered and assessments made, or claims filed. (See R&TC, §§ 19057, 19306.) Generally, an examination of the return is required prior to an assessment. (*Wertin v. Franchise Tax Board* (1998) 68 Cal.App.4th 961.)

However, this statutory scheme contradicts an interpretation that R&TC section 19032 places an affirmative duty on respondent to conduct an examination of each return filed. (*Wertin, supra*, at p. 974 ["statutes are to be construed together with other statutes forming part

of the same scheme”]; see *Appeal of Cervantes* (74-SBE-029) 1974 WL 2844) [respondent has no duty to discover or report overpayments stemming from taxpayers’ erroneous inclusion of withholding tax in gross income]; *Appeal of Bendig* (68-SBE-0034) 1968 WL 1663 [respondent has no duty to discover or report overpayments stemming from return computational errors].) Nor does respondent have an obligation to inform taxpayers of the time within which a claim for refund must be filed. (*Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856.)

“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.” (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P (italics added); *Appeal of Matthiessen, supra.*) OTA has no authority to grant relief from these limitation periods except where the law specifically allows. (*Appeal of Estate of Gillespie, supra.*) Federal courts have stated that fixed deadlines may appear harsh because they can be missed, but the resulting occasional harshness is redeemed by the clarity of the legal obligation imparted. (*Prussner v. United States* (7th Cir. 1990) 896 F.2d 218, 222.)

Accordingly, OTA finds that respondent properly denied appellants’ claims for refund for the 2017 and 2018 tax years.

HOLDING

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

DISPOSITION

Respondent's actions denying appellants' claims for refund for the 2017 and 2018 tax years are sustained.

Signed by:  
*Greg Turner*  
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Greg Turner  
Administrative Law Judge

We concur:  
Signed by:  
*Seth Elsom*  
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Seth Elsom  
Hearing Officer

DocuSigned by:  
*Andrew Wong*  
8A4294817A67463...

Andrew Wong  
Administrative Law Judge

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