

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
D. NEWELL¹) OTA Case No. 241218411
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OPINION

Representing the Parties:

For Appellant: D. Newell
For Respondent: David C. Cortez, Associate Government Program Analyst

H. BOYD, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, D. Newell (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$5,584 for the 2019 tax year.

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether appellant’s claim for refund for the 2019 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. On February 12, 2024, FTB sent appellant a Nonwage Withholding Credits Notice – No Tax Return on File, which stated that it appeared appellant may be entitled to nonwage withholding credits for the 2019 tax year, but that FTB did not have a tax return on file for appellant. The Notice stated that if appellant had not filed a tax return for the 2019 tax year, appellant needed to file the return before the statute of limitations time period expired to obtain a refund.

¹ Appellant filed a joint return with his spouse for the 2019 tax year. However, appellant’s spouse did not join this appeal.

2. On October 7, 2024, FTB received appellant's 2019 California tax return, which listed an overpayment and requested a refund of the overpayment.
3. FTB denied appellant's refund because the statute of limitations time period expired.
4. This timely appeal followed.
5. On appeal, appellant provides a copy of a signed Form 8879 IRS e-file Signature Authorization for him and his spouse for the 2019 tax year dated October 14, 2020, and a copy of a United States Postal Service (USPS) certified mail receipt addressed to Sacramento, CA dated September 27, 2024, and a USPS register receipt for mailing a large envelope on the same day.

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 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 in showing entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

Appellant alleges he filed his 2019 California tax return on October 14, 2020, when he filed his federal tax return. On appeal, appellant provides a copy of a signed Form 8879 IRS e-file Signature Authorization for 2019 dated October 14, 2020. However, this authorization only shows that appellant consented to having his CPA send the 2019 federal return to the IRS, and to receive an acknowledgement of receipt or rejection from the IRS. The authorization form does not show when the 2019 federal return was filed by the CPA or received by the IRS. Appellant also provides a certified mail receipt showing he mailed a large envelope to Sacramento, CA on September 27, 2024, almost four years later. The September 27, 2024 date is consistent with FTB's February 12, 2024 Nonwage Withholding Credits – No Tax Return on File notice, and appellant's 2019 return, which bears a received date stamp of October 7, 2024. On the record before OTA, it finds that appellant filed his return on September 27, 2024.

FTB treated the 2019 California tax return as a claim for refund. On appeal, appellant maintains he timely filed the claim for refund. Appellant's 2019 California tax return had an

original due date of April 15, 2020.² (R&TC, § 18566.) An automatic extension of six months is provided by regulation, if the tax return is filed during that extension, which sets an extended due date of October 15, 2020, for 2019 tax returns. (R&TC, § 18567; Cal. Code Regs., tit. 18, § 18567, see *Appeal of Bannon*, 2023-OTA-096P [six-month extension is calculated from the original due date, not the postponed due date].)³

Because appellant did not file a timely tax return during the extended filing period that ended on October 15, 2020, the first four-year statute of limitations period in R&TC section 19306(a) is inapplicable.

Under the second four-year statute of limitations period to file a claim for refund, the four-year period runs from the original due date of April 15, 2020, and thus expired on April 15, 2024. (R&TC, §§ 19306(a), 18566.) By filing on September 27, 2024, appellant missed the deadline by more than five months.

The one-year statute of limitations period runs one year from the date of payment. For purposes of the statute of limitations, withholding payments are deemed paid on the due date of the return (without regard to extensions). (R&TC, § 19002(c).) Therefore, appellant's tax payment is deemed paid on April 15, 2020. (R&TC, §§ 19002(c), 18566.) The one-year statute of limitations period expired one year later, on April 15, 2021. Appellant's September 27, 2024, claim for refund is beyond the one-year statute of limitations. Because appellant's claim for refund is beyond the latter of the four-year and the one-year statute of limitations periods, OTA finds that appellant did not timely file a request for refund.

² Due to the COVID-19 pandemic, FTB postponed the filing due date for 2019 tax returns from April 15, 2020, to July 15, 2020 ("postponed due date"). (See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-5-april-15-tax-day-postponed-until-july-15-2020.html>.) However, appellant did not file the 2019 tax return by the postponed due date.

³ In a July 2020 news release, FTB reminded taxpayers that the 2020 extended due dates remained the same. See *Extended due dates remain the same amid COVID-19*, available at: <https://www.ftb.ca.gov/about-ftb/newsroom/tax-news/july-2020/extended-due-dates.html>.

HOLDING

Appellant's claim for refund for the 2019 tax year is barred by the statute of limitations.

DISPOSITION

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

Signed by:



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Heather Boyd
Administrative Law Judge

We concur:

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Asaf Kletter
Administrative Law Judge

DocuSigned by:



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Keith T. Long
Administrative Law Judge

Date Issued: 12/3/2025