

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
F. CERVANTES) OTA Case No. 241218164
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OPINION

Representing the Parties:

For Appellant: F. Cervantes

For Respondent: Arathi Ramalingam, Attorney

For Office of Tax Appeals: Grace Pating, Graduate Student Assistant

J. LAMBERT, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, F. Cervantes (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$2,053 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 August 12, 2024, appellant untimely filed a California Resident Income Tax Return for the 2019 tax year (Return). After applying exemptions, appellant reported a total tax of zero, withholdings of \$2,053, and an overpayment of \$2,053, which appellant requested to be refunded.
2. FTB accepted the Return and treated it as a claim for refund.
3. On August 29, 2024, FTB denied the claim for refund due to expiration of the statute of limitations.
4. Appellant timely filed this appeal.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. Generally, no credit or refund shall be allowed or made 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 for the year at issue (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. (R&TC, § 19306(a).) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) 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.)

Appellant filed his claim for refund on August 12, 2024. Appellant did not file within the extension period by October 15, 2020 (see R&TC, § 18567), thus barring his claim under the first four-year statute of limitations. Appellant also did not file by April 15, 2024, which is four years from the original filing deadline, barring his claim under the second four-year statute of limitations. Finally, appellant's withholdings are deemed paid on April 15, 2020 (see R&TC, § 19002(c)(1)), and appellant did not file within one year of that date, barring his claim under the one-year statute of limitations.

Appellant asserts that various difficult circumstances contributed to his late filing, including being head of the household and an essential worker during the COVID-19 pandemic. However, the law does not permit the suspending of the statute of limitations based on reasonable cause or equity.¹ (*Appeal of Benemi Partners, L.P.*, *supra.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*) Therefore, appellant's claim for refund for the 2019 tax year is barred by the statute of limitations.


¹ R&TC section 19316(a) provides for a narrow exception under certain circumstances not relevant to this appeal.

HOLDING

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

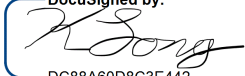
DISPOSITION

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


Signed by:

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Josh Lambert
Administrative Law Judge

We concur:

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Keith T. Long
Administrative Law Judge

Signed by:

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L. Katrine Shelton
Administrative Law Judge

Date Issued: 11/17/2025