



3. Respondent treated the Form 540X as a claim for refund, which it denied for being untimely.

### DISCUSSION

Taxpayers have the burden of proving their entitlement to a refund and that the claim is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) Unsupported assertions are insufficient to meet this burden. (*Appeal of Chen and Chi*, 2020-OTA-021P; *Appeal of Magidow* (82-SBE-274) 1982 WL 11930.) Amounts withheld are deemed paid on the original due date of the Form 540. (See R&TC, § 19002(c).) 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 original 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.)

Here, appellants' 2019 Form 540 was timely filed by the extended due date, and four years from the filing date is May 9, 2024. Because the 2019 Form 540X was not filed until June 15, 2024, appellants' refund claim was untimely under both four-year statute of limitations. The 2020 COVID-19 postponement date of July 15, 2020, does not alter this outcome (see Treas. Reg. § 301.7508-1(b)(4); *Appeal of Bannon*, 2023-OTA-096P). Furthermore, because appellants' withholding credits were deemed paid by April 15, 2020, appellants' refund claim was also untimely under the one-year statute of limitations.

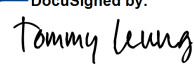
Appellants assert that after receiving respondent's February 2024 notification regarding the withholding credits, they provided the information to their CPA for purposes of filing their 2019 Form 540X. However, appellants' CPA did not file their 2019 Form 540X on time. Nevertheless, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*U.S. v. Brockamp* (1997) 519 U.S. 347; *Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Further, neither the ill health of a taxpayer, nor any other unfortunate circumstances can extend the statute of limitations for filing a claim for refund. (*Appeal of Estate of Gillespie (dec'd)*, 2018-OTA-052P.) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, *supra*; *Appeal of Estate of Gillespie (dec'd)*, *supra*.) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Prussner v. US.* (7th Cir. 1990) 896 F.2d 218, 222-223 .

HOLDING

Appellants' refund claim was not timely.

DISPOSITION

Respondent's action is sustained.

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Tommy Leung  
Administrative Law Judge

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