

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:) OTA Case No. 241218352
J. COWDREY AND)
J. COWDREY)
_____)

OPINION

Representing the Parties:

For Appellants: Stevenson G. Smith, Representative

For Respondent: Kaleigh Adams, Graduate Legal Assistant

H. BOYD, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Cowdrey and J. Cowdrey (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$4,405 for the 2019 tax year.

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

FACTUAL FINDINGS

1. Appellants timely filed their 2019 California Nonresident Income Tax Return on July 6, 2020.¹
2. On February 12, 2024, FTB issued an Unclaimed Nonwage Withholding Credits letter stating that appellants may be entitled to nonwage withholding credits for the 2019 tax year that appellants did not appear to claim on their return. It requested appellants file

¹ For the 2019 tax year, FTB postponed the original due date for individuals to file tax returns from April 15, 2020, to July 15, 2020, because of the COVID-19 pandemic. (See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-5-april-15-tax-day-postponed-until-july-15-2020.html>.)

an amended return and warned appellants to respond in a timely manner, including a statement that California Revenue and Taxation Code Section 19306 requires filing the amended return by “four years from the date you actually filed your tax return, if you filed by the extended due date.”

3. On October 15, 2024, appellants filed an amended 2019 tax return claiming the credits and reflecting an overpayment. FTB accepted the return and treated it as a claim for refund.
4. On November 25, 2024, FTB sent appellants a letter denying their refund request as untimely and barred by the statute of limitations.
5. This timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306, which provides that no credit or refund shall be allowed unless a claim for refund is filed within the later of: (1) four years from when 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. 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. (*U.S. v. Brockamp* (1997) 519 U.S. 347, 351.) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) 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. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*) Appellants filed their original 2019 tax return on July 6, 2020, within the six-month extension window. (R&TC, § 18567; Cal. Code Regs., tit. 18, § 18567.) Thus, the first statutory limitations period in R&TC section 19306 applies and appellants’ four-year window to file a refund claim closed on July 6, 2024. As appellants filed their amended return and thus refund request on October 15, 2024, they filed it more than three months after the statute of limitations expired.

The one-year statute of limitations period in R&TC section 19306 runs one year from the date of payment. For purposes of the statute of limitations, amounts withheld are deemed paid on the original return due date without regard to extensions. (R&TC, § 19002(c).) Therefore,

appellants' withholding and estimated tax payments are 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. As such, appellants' October 15, 2024 claim for refund is beyond the one-year statute of limitations.

Appellants maintain that their 2019 amended tax return functioning as a claim for refund was filed timely on October 15, 2024, which is four years from the extended due date for filing the return. As mentioned above, the relevant part of R&TC section 19306 states that the statute of limitations time period expires "four years from the date the return was filed (if filed within the [extension of time to file])" Thus, while appellants could have filed their original return on October 15, 2020, and would have had until October 15, 2024, to file their refund claim, they actually filed on July 6, 2020, and thus the four-year window for filing the refund claim closed on July 6, 2024, more than three months before appellants filed their refund claim.

Appellants further argue that they were unaware of the withholdings. California operates on a voluntary tax reporting system in which taxpayers are expected to self-report their tax liabilities and likewise should be aware of any possible overpayment to which they may be entitled. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) FTB has no duty to discover a taxpayer's overpayments of income tax or to notify the taxpayer of such overpayments. (*Appeal of Cervantes* (74-SBE-029) 1974 WL 2844.)

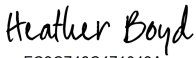
Additionally, OTA notes that while FTB does not have an obligation to discover a taxpayer's overpayment or inform a taxpayer of the time within which a claim for refund must be filed (see *Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856), FTB did so here. FTB notified appellants of the unclaimed nonwage withholding credits on February 12, 2024, when the statute of limitations was still open. Appellants' timely response to FTB's notice would have resulted in the timely filing of the refund claim. However, without a timely refund claim, FTB does not have the statutory authorization to credit or refund amounts paid, and OTA does not have statutory authorization to require FTB to do so. (*Appeal of Estate of Gillespie, supra.*) Accordingly, appellants' claim for refund is barred by the statute of limitations.

HOLDING


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

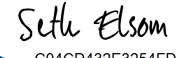
DISPOSITION

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

Signed by:

FC3C746C471043A...
Heather Boyd
Administrative Law Judge

We concur:

Signed by:

32D46B0C49C949F
Veronica I. Long
Administrative Law Judge

Signed by:

C04CD432E3254FD...
Seth Elsom
Hearing Officer

Date Issued: 12/15/2025