

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
I. ROA) OTA Case No. 250822918
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OPINION

Representing the Parties:

For Appellant: I. Roa
For Respondent: David C. Cortez, Program Specialist

T. LEUNG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, I. Roa (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$2,062 for the 2020 taxable year.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05(b).)

Appellant waived her right to an oral hearing; therefore, this matter is decided based on the written record. (See Cal. Code Regs., tit. 18, § 30209(a).)

ISSUE

Whether appellant’s 2020 refund claim was timely.

FACTUAL FINDINGS

1. Appellant filed her 2020 California personal income tax return (Form 540) on June 30, 2025. On her 2020 Form 540, appellant reported \$0 tax due, \$0 in withholdings, an Earned Income Tax Credit (EITC) of \$2,062, and claimed a refund for the \$2,062 EITC.
2. Respondent denied appellant’s refund claim because it was filed late.

DISCUSSION

Taxpayers have the burden of proving 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. (See *Appeal of Chen and Chi*, 2020-OTA-021P; *Appeal of Magidow* (82-SBE-274) 1982 WL 11930.) Amounts withheld from wages are deemed paid on the original due date of Form 540. (See R&TC, § 19002(c).) Moreover, the EITC is deemed “paid” on the original due date of the Form 540. (See *Appeal of Sotelo*, 2025-OTA-035P.) 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(a).) Taxpayers have the burden of proving 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 a taxpayer’s burden of proof. (See *Appeal of Chen and Chi*, 2020-OTA-021P; *Appeal of Magidow* (82-SBE-274) 1982 WL 11930.)

For purposes of the one-year statute of limitations, amounts withheld from wages are deemed paid on the original filing due date of the Form 540. (See R&TC, § 19002(c).) For purposes of the one-year statute of limitations, the EITC is similarly deemed “paid” on the original filing due date of the Form 540. (See *Appeal of Sotelo*, 2025-OTA-035P.)

Because the 2020 Form 540 was not filed until June 30, 2025, appellant’s refund claim was untimely under both of the four- year statutes of limitations mentioned above.¹ Finally, because appellant’s EITC was deemed “paid” on April 15, 2021 (i.e., the original due date of the 2020 Form 540), her refund claim was also untimely under the one- year payment statute of limitations.

According to respondent, appellant contends that she filed her 2020 Form 540 in 2024. However, there is nothing in the record to substantiate this assertion and it is therefore not persuasive. (See *Appeal of Sotelo*, *supra*.) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)


¹ While respondent postponed the due date for filing 2020 returns due to COVID-19, that postponement does not impact the look-back period for calculating the claim for refund statute of limitations. (See *Appeal of Nguyen*, 2025-OTA-333P.)

HOLDING

Appellant's 2020 refund claim was not timely.

DISPOSITION

Respondent's action is sustained.

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Tommy Leung
Administrative Law Judge

Date Issued: 2/4/2026