

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
J. DUNLAP) OTA Case No. 250118532
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OPINION

Representing the Parties:

For Appellant: J. Dunlap

For Respondent: Ganeet Atwaal, Legal Analyst

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Dunlap (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$6,697.36 for the 2019 tax year.

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

ISSUE

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

FACTUAL FINDINGS

1. Appellant did not timely file a California tax return for the 2019 tax year.
2. FTB issued a Request for Tax Return.
3. After appellant failed to respond to the Request for Tax Return, FTB issued a Notice of Proposed Assessment (NPA), which estimated appellant’s total income and tax liability for the 2019 tax year based on information reported by third parties (i.e., wages, dividend income, and interest income). The NPA also proposed to assess penalties and interest. Appellant did not respond to the NPA; therefore, the NPA became final and payable.
4. On February 28, 2022, April 13, 2022, and May 20, 2022, FTB issued appellant notices of her 2019 tax balance due.

5. On May 20, 2022, FTB received a payment from appellant in full satisfaction of appellant's 2019 account balance.
6. On October 3, 2024, appellant untimely filed a 2019 California Resident Income Tax Return.
7. FTB accepted the return as filed and treated it as a claim for refund.
8. FTB denied the claim for refund due to the expiration of the statute of limitations, and this timely appeal followed.

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 last date prescribed 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 proving entitlement to a refund and that the claim is timely. (*Appeal of Fischer (Dec'd)*, 2024-OTA-518P.)

Appellant does not dispute that the 2019 tax return filed on October 3, 2024, was filed outside of the statute of limitations prescribed in R&TC section 19306(a). Rather, appellant explains that at the time the 2019 tax return was originally due, she focused all her efforts on keeping a non-profit organization afloat during the COVID-19 pandemic, and she neglected her personal finances and tax obligations. Appellant asserts that when she was made aware of her failure to file her return in 2022, she did not have an accountant to file her return but she paid the balance in full as a show of good faith. Appellant claims she was not aware of the four-year statute of limitations and thought she would receive a refund of any overpayment upon filing the 2019 return. Appellant concludes that she made an innocent mistake and requests a refund despite the untimely filing of the claim for refund.

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Fischer (Dec'd)*, *supra.*) 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.*) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) Therefore, appellant's untimely claim for refund is barred by the statute of limitations.

HOLDING

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

DISPOSITION

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

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Erica Parker
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Erica Parker
Hearing Officer

We concur:
Signed by:
Veronica I. Long
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Veronica I. Long
Administrative Law Judge

DocuSigned by:
Teresa A. Stanley
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Teresa A. Stanley
Administrative Law Judge

Date Issued: 2/5/2026