

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: ) OTA Case No. 240817038  
**G. MAYS** )  
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**OPINION**

Representing the Parties:

For Appellant: Alla Ratynets, CPA

For Respondent: Shah Khan, Program Specialist  
Brad Countinho, Attorney

For Office of Tax Appeals: Oliver Pfof, Attorney

N. RALSTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, G. Mays (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$6,844 for the 2019 tax year.

Office of Tax Appeals (OTA) Panel Members Suzanne B. Brown, Seth Elsom, and Natasha Ralston held a virtual oral hearing for this matter on January 21, 2026. At the conclusion of the hearing, the record was closed, and this matter was submitted for an opinion pursuant to California Code of Regulations, title 18, section 30209(b).

**ISSUE**

Whether appellant’s claim for refund for the 2019 tax year is barred by the statute of limitations.

**FACTUAL FINDINGS**

1. Appellant attempted to electronically file an income tax return on February 15, 2021. The electronic filing was rejected by respondent.
2. On May 30, 2024, respondent received from appellant a 2019 California income tax return (tax return). The tax return reported income tax withheld of \$17,310 and a refund due of \$6,844.

3. Respondent accepted the tax return as filed and treated it as a claim for refund of \$6,844.
4. In a notice to appellant dated June 18, 2024, respondent denied the refund based on its determination that the refund claim was barred by the statute of limitations.
5. Appellant timely filed this appeal.

### DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed unless the claim is filed within the later of the following dates: (1) four years from the date the return is filed, if the return was timely filed pursuant to an extension of time to file; (2) four years from the due date of the return, determined without regard to any extension of time to file; or (3) one year from the date of overpayment. California state income tax returns for individual taxpayers are due on April 15th following the close of the calendar year. (R&TC, § 18566.) For purposes of the one-year statute of limitations, any tax deducted and withheld during any calendar year is deemed to have been paid on the original due date for filing the return. (R&TC, § 19002(c)(1).)

Here, the tax withholding is deemed paid on April 15, 2020, and the one-year statute of limitations expired one year from the date of this overpayment, on April 15, 2021. Regarding the four-year statute of limitations, there is no evidence that appellant filed a return within an extension of time to file. Therefore, the statutory due date of the return was April 15, 2020, and four years from that date is April 15, 2024.<sup>1</sup> Under R&TC section 19306(a), the later of the dates is April 15, 2024, four years from the statutory due date, and therefore, it is the date when the statute of limitations expired. Appellant filed the tax return and claim for refund on May 30, 2024, after the statute of limitations expired.

On appeal, appellant contends that after the electronic filing was rejected, he mailed a paper return to respondent on June 25, 2021. Appellant provides a sworn affidavit in support of this contention. Appellant further contends that he mailed the paper return using “regular” United States Postal Service mail because the COVID-19 pandemic made it challenging to access mailing and courier services. Appellant requests OTA accept the sworn affidavit in place of traditional proof of mailing. Ultimately, appellant argues that because the paper return was

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<sup>1</sup> In response to the COVID-19 pandemic, respondent postponed the due date for 2019 individual income tax returns to July 15, 2020. (See *State Postpones Tax Deadlines Until July 15 Due to COVID-19 Pandemic*, news release (Mar. 18, 2020) <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-3-state-postpones-tax-deadlines-until-july-15-due-to-the-covid-19-pandemic.html>) Respondent’s postponement does not change the statutory due date of the return on which the statute of limitations in R&TC section 19306(a) is based. (Treas. Reg. § 301-7508A-1(b)(4); *Appeal of Bannon*, 2023-OTA-096P.)

mailed on June 25, 2021, the claim for refund is timely and not barred by the statute of limitations.

Taxpayers have the burden of proof in showing that a claim for refund is timely and that a refund should be granted. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Government Code section 11003 provides that if a claim for refund is required by law to be filed with respondent by a certain date, and is filed through the United States Postal Service, properly addressed with postage prepaid, it is be deemed filed on the date shown by the cancellation mark stamped on the envelope containing it. Alternatively, if proof satisfactory to respondent establishes that the mailing occurred on an earlier date, it will be deemed filed on that date. (Gov. Code, § 11003.) If an envelope bearing the cancellation mark is not offered into evidence, Government Code section 11003 explicitly puts the determination of the mailing date within respondent's discretion. (*In re Bracey* (9th Cir. 1996) 77 F.3d.294, 296.)

On appeal, respondent states proof of mailing generally includes a postmark, a certified or registered mailing receipt, or tracking information. Respondent states unsupported statements or testimony do not serve as proof of mailing. Appellant has not provided "traditional" proof of mailing, such as a postmark, a certified or registered mailing receipt, or tracking information. Rather, appellant provides a sworn affidavit that a paper return was mailed on June 25, 2021. However, when a taxpayer does not provide an envelope bearing the cancellation mark, as required by Government Code section 11003, it is within respondent's discretion to determine whether evidence is sufficient to prove that a paper return was mailed on a certain date. Respondent determined the sworn affidavit, by itself, insufficient to prove appellant mailed a paper return on June 25, 2021, and OTA does not have legal authority to reverse respondent's determination. Respondent received the tax return and claim for refund on May 30, 2024, after the statute of limitations had expired. Appellant's claim for refund is therefore barred by the statute of limitations.

HOLDING

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

DISPOSITION

Respondent's action is sustained.

Signed by:  
*Natasha Ralston*  
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Natasha Ralston  
Administrative Law Judge

We concur:

Signed by:  
*Seth Elsom*  
C04CD432E3254ED  
\_\_\_\_\_  
Seth Elsom  
Hearing Officer

Signed by:  
*Suzanne B. Brown*  
47E45ABE89E34D0  
\_\_\_\_\_  
Suzanne B. Brown  
Administrative Law Judge

Date Issued: 3/12/2026