



4. Appellant protested the NPA using a Quick Resolution Worksheet that appellant signed on October 7, 2019.
5. FTB issued a Notice of Action affirming the NPA on February 12, 2020.
6. On June 12, 2024, appellant filed a tax return reporting zero total tax and withholdings of \$186,648, which appellant requested be refunded.
7. FTB issued a notice denying appellant's claim for refund of \$186,292.<sup>1</sup>
8. This timely appeal followed.

### DISCUSSION

With certain exceptions not at issue here, 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 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 proof to show entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) If taxpayers fail to file a claim for refund within the statute of limitations, the claim is barred even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*)

Appellant failed to file a 2017 tax return by April 15, 2018, the original due date for the return, or by the extended due date of October 15, 2018. (R&TC, §§ 18566, 18567(a)(1); Cal. Code Regs., tit. 18, § 18567(a).) Since appellant did not file a return within an extension of time to file, the first four-year statute of limitations period described in R&TC section 19306(a) is inapplicable. The second four-year statute of limitations period runs from the original due date for appellant's 2017 return, and thus expired on April 15, 2022, which is four years from the original due date of the return, on April 15, 2018. (R&TC, §§ 19306(a), 18566.) Appellant, however, filed his return (which is his claim for refund) on June 12, 2024, which is beyond the four-year statute of limitations period prescribed in R&TC section 19306(a).

Regarding the one-year statute of limitations, appellant's nonwage withholding credits of \$186,648 are deemed paid on the original due date for the return, April 15, 2018. (R&TC, §§ 19002(c)(1), 18566.) Thus, to be within the one-year statute of limitations, appellant must

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<sup>1</sup> When pursuing collection, FTB imposed a collection cost recovery fee of \$316 and a county lien fee of \$40, which remain on the account, leaving an overpayment of \$186,292 (\$186,648 - \$316 - \$40). Based on appellant's reported zero total tax, FTB abated the late-filing penalty and the filing enforcement cost recovery fee.

have filed a claim for refund on or before April 15, 2019. As appellant filed his return on June 12, 2024, his claim for refund is barred by the one-year statute of limitations.

Appellant inherited real property when his mother passed away in 2016 and sold the property in 2017. Appellant contends that because the basis of the real property was stepped up on the death of his mother, he had no taxable gain on the sale,<sup>2</sup> and the escrow company improperly withheld California tax from the sales proceeds and paid them to FTB when his mother's real property sold. Appellant testified that he had no knowledge of that until just before the sale closed, and then there was nothing he could do about it.<sup>3</sup>

Appellant did not think he had a filing requirement because of the step-up in basis upon his mother's death, and because he was not required to file returns in prior taxable years. He further states that he would have been unable to file his tax return for 2017 because his close relatives began a "legal campaign" against him that lasted for years. To compound matters for appellant, he contends that the continued harassment by his relatives caused him to have to move several times, which meant that he was not receiving FTB's notices.

In support of appellant's claim, Mr. Martin, appellant's representative and return preparer, testified that he was unaware of appellant's withholdings until it was too late to timely file a claim for refund. Mr. Martin stated that when appellant retained him, he had to prepare 2011 through 2019 federal tax returns before he could file the California tax return for 2017. Mr. Martin testified that he spoke with FTB when he became aware of appellant's situation. Mr. Martin said that on at least two occasions, FTB stated that there were some situations in which FTB allowed a claim for refund beyond the expiration of the statute of limitations.<sup>4</sup> FTB responded that a review of its telephone call records did not reveal anything relevant to the statute of limitations issue in this appeal.

While OTA is sympathetic to appellant's circumstances, such as extended litigation with respect to the inherited real property while dealing with the passing of his mother, reasonable

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<sup>2</sup> See Internal Revenue Code section 1014, to which California conforms through R&TC section 18031.

<sup>3</sup> In testimony at the oral hearing, both appellant and his representative referred to "you" when speaking of FTB. To be clear, the Office of Tax Appeals (OTA) is an independent appeals body that is not affiliated with FTB or any other tax agency. The only evidence considered by OTA is the evidentiary record, including witness testimony.

<sup>4</sup> With respect to Mr. Martin's testimony that FTB informed him there were circumstances where FTB allowed a claim for refund after the statute of limitations expired, FTB may have been referring to an exception for "financial disability." Pursuant to R&TC section 19316(b)(1) a taxpayer is "financially disabled" if that taxpayer is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months.

cause does not extend the statute of limitations. (*Appeal of Benemi Partners, L.P., supra.*) The facts of this case do not support a financial disability that would suspend the statute of limitations for any period.

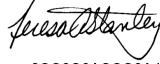
Consequently, OTA cannot grant appellant’s claim for refund as it is time barred.

HOLDING

Appellant’s claim for refund for taxable year 2017 is barred by the statute of limitations.


DISPOSITION

OTA sustains FTB’s action denying appellant’s claim for refund.

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Teresa A. Stanley  
Administrative Law Judge

We concur:

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Amanda Vassigh  
Administrative Law Judge

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Hans Famularo  
Administrative Law Judge

Date Issued: 3/3/2026