

3. Appellant filed her 2017 California tax return on May 29, 2024, and her 2018 California tax return on July 8, 2024.
4. FTB accepted the returns and reduced the penalties, fees, and interest.
5. FTB treated the returns as claims for refund, which it denied in the amounts of \$36,105.32 for the 2017 tax year and \$6,551.72 for the 2018 tax year.

DISCUSSION

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).) In an action for refund, taxpayers have the burden of proof to show that a refund is warranted and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) The law does not provide for the suspension of the statutory period based on reasonable cause or extenuating circumstances. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*Ibid.*)

Appellant concedes that the tax returns were untimely filed. Therefore, there is no dispute that appellant's claims are barred under the statute of limitations. Appellant requests to know the location of various payments, which FTB explains, and the record shows, were credited to other tax years by FTB. Appellant requests information as to a payment of \$41,262.89 from a levied account of Square, Inc. A check payment of \$41,262.89 from Square was voided and reissued from Square to appellant. Because the payment was not received by FTB, the payment was not included in the calculation of the 2017 and 2018 overpayments and is not applicable to this appeal.

Appellant requests that some of the overpayments (that are barred under the statute of limitations) be applied to her 2022 tax year account. However, crediting overpayments for 2017 and 2018 is barred under the statute of limitations. (R&TC, § 19306(a).) Appellant also contends that FTB is in possession of excessive funds due to the overpayments. However, 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. (*Appeal of Benemi Partners, L.P.*, *supra.*) In conclusion, the record does not show that FTB erred in failing to refund or credit overpayments.

HOLDING

Appellant's claims for refund for the 2017 and 2018 tax years are barred by the statute of limitations.

DISPOSITION

FTB's actions are sustained.

Signed by:
Josh Lambert
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Josh Lambert
Administrative Law Judge

We concur:
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Kenneth Gast
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Kenneth Gast
Administrative Law Judge

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

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