

2. On November 18, 2020, FTB issued a Notice of Tax Return Change – Revised Balance to appellants, which imposed a late payment penalty and interest totaling \$145.17. FTB received appellants' payment of \$145.17 on December 14, 2020.
3. On February 6, 2024, FTB issued appellant P. McDaniel an Unclaimed Nonwage Withholding Credits notice (Notice), which stated that based on FTB's records, appellant P. McDaniel may be entitled to estimated nonwage withholding credits of \$2,157. The Notice instructed appellant P. McDaniel to timely file an amended income tax return within the statute of limitations to claim the withholding credit.
4. On May 28, 2024, FTB received Side 5 of a 2019 Form 540NR (Document), which appellants signed and dated May 20, 2024, and appellants' CPA signed and dated March 17, 2024. The Document listed a refund of \$2,157 but was otherwise blank. FTB did not process the Document.
5. On November 26, 2024, FTB received appellants' amended 2019 Form 540NR, which reported California income tax withholding of \$2,157 and zero total tax. The amended 2019 Form 540NR claimed a refund of \$2,157.
6. On January 16, 2025, FTB issued appellants a Tax Information and Document Request (TIDR), which requested information to process appellants' amended tax return. On February 20, 2025, appellants responded to the request and provided copies of the requested documentation and information. FTB then processed the amended 2019 Form 540NR and treated it as a claim for refund. FTB determined that appellants' 2019 tax year account showed an overpayment of \$4,021.56.¹
7. On February 26, 2025, FTB issued appellants a Statute of Limitations letter, notifying appellants that FTB recently processed appellants' amended 2019 Form 540NR but that FTB cannot issue a refund because the statute of limitations had expired.
8. This timely appeal followed. On appeal, appellants provide proof of certified mailing dated February 2025, for appellants' response to the TIDR, and correspondence from their CPA dated November 18, 2024, which claims that an amended 2019 Form 540 NR was previously prepared and mailed to FTB.

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

¹ The overpayment included the bill payments of \$1,719 and \$145.17, plus withholding of \$2,157.

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 the overpayment. The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

Here, appellants filed a timely 2019 Form 540NR on October 15, 2020, pursuant to the automatic six-month extension. (See R&TC, § 18566; 18 Cal. Code Regs., tit.18, § 18567.) Therefore, the four-year statute of limitations concerning returns filed within the automatic extension expired on October 15, 2024. (See R&TC, § 19306(a).) The original due date of the 2019 Form 540NR was April 15, 2020, and therefore, the four-year statute of limitations concerning the due date for filing the return expired on April 15, 2024. (See R&TC, §§ 18566; 19306(a).)

Under the one-year statute of limitations, appellants must file a claim for refund within one year from the date of the overpayment. For purposes of R&TC section 19306, tax deducted and withheld during the tax year is deemed paid on the original return due date (without regard to any extension of time for filing the return). (R&TC, § 19002(c)(1).) Therefore, the withholding credits are deemed to be paid on the original due date of the return, April 15, 2020. Appellants also made payments on October 26, 2020, and December 14, 2020. The latest payment was December 14, 2020, and therefore, the latest one-year statute of limitations period expired on December 14, 2021.

Based on the foregoing, the latest statute of limitation period expired on October 15, 2024, and appellants had until that date to file their claim for refund. On appeal, appellants refer to correspondence from their CPA, which inquires about the status of an amended return, which appellants assert was submitted on March 17, 2024. However, while appellants' CPA signed and dated the Document March 17, 2024, appellants signed and dated the Document May 20, 2024, which indicates that the Document was submitted to FTB later than March 17, 2024. Regardless, OTA interprets appellants to contend that the Document was their timely claim for refund.

R&TC section 19322 provides that every "claim for refund shall be in writing, shall be signed by the taxpayer[s] or the taxpayer[s'] authorized representative, and shall state the specific grounds upon which [the claim] is filed." Here, while the Document was signed and dated by appellants and their representative, it did not state any specific grounds for a refund of \$2,157 and therefore failed to meet the third requirement of R&TC section 19322. Moreover, the purpose of R&TC section 19322 is to ensure that FTB receives sufficient notice of the claim and its basis. (*J.H. McKnight Ranch, Inc. v. Franchise Tax Bd.*, 110 Cal.App.4th 978, 986.)

While the Document was received by FTB after FTB mailed the Notice to appellants, the Document failed to provide any basis for the claim. Therefore, the Document was not a valid claim for refund.

The CPA's correspondence, dated November 18, 2024, claims that appellants previously prepared and submitted an amended 2019 Form 540NR to claim the withholding credits. However, FTB's records show it received appellants' amended 2019 Form 540NR on November 26, 2024. Therefore, OTA must determine the date on which the amended 2019 Form 540NR was filed.

Generally, a document filed with FTB is considered filed on the date the document is received by FTB. (See *U.S. v. Lombardo* (1916) 241 U.S. 73, 76-77 [documents filed with the government are considered filed when delivered and received by the proper agency or official].) If taxpayers file a return before the statutory filing deadline and the return is received late, taxpayers must offer evidence that the return was timely filed, such as a registered or certified mail receipt. (Gov. Code, § 11003; Internal Revenue Code, § 7502; R&TC, § 21027; *Appeal of Fisher*, 2022-OTA-337P.) Taxpayers assume "the risk that the postmark will bear a date on or before the last date . . . prescribed for filing the [return]," and have the burden of proving the date of the postmark or that the return was timely mailed. (Treas. Reg. § 301.7502-1(c)(1)(iii).) R&TC section 21027 provides that Treasury Regulation section 301.7502-1, effective January 11, 2001, shall be applicable to FTB filings.

On appeal, appellants provide no proof of mailing to show that they timely filed an amended 2019 Form 540NR with FTB before FTB's date of receipt on November 26, 2024. Moreover, the CPA's correspondence is dated November 18, 2024, after the statute of limitations expired, and therefore, does not prove that appellants timely filed the amended 2019 Form 540NR. Finally, while appellants provide proof of mailing to show that appellants responded to FTB's TIDR on February 19, 2025, after the statute of limitations expired, that is after the date FTB received appellants' amended 2019 Form 540NR. Because appellants fail to provide proof that they mailed the amended 2019 Form 540NR before the date that FTB received it, OTA treats the date of filing as November 26, 2024. (See *U.S. v. Lombardo*, *supra*.)


The latest statute of limitations period for appellants to file a claim for refund expired on October 15, 2024. Appellants untimely filed their claim for refund, the amended 2019 Form 540NR, on November 26, 2024. Therefore, the refund claim is time-barred. The language of R&TC section 19306 is explicit and must be strictly construed. (*Benemi Partners, L.P.*, *supra*.) Absent an exception, appellants' untimely filing of a claim for any reason bars a refund, even if it is later shown that the tax was not owed in the first place. (*Ibid.*)

HOLDING


Appellants' claim for refund for the 2019 tax year is untimely under R&TC section 19306.

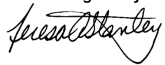
DISPOSITION

Respondent's action denying appellants' claim for refund is sustained.

DocuSigned by:

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Asaf Kletter
Administrative Law Judge

We concur:

Signed by:

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Natasha Ralston
Administrative Law Judge

DocuSigned by:

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Teresa A. Stanley
Administrative Law Judge

Date Issued: 2/23/2026