

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

In the Matter of the Appeal of: )  
**J. VARGAS** ) OTA Case No. 250118562  
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**OPINION**

Representing the Parties:

For Appellant: J. Vargas  
For Respondent: Arathi Ramalingam, Attorney

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Vargas (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$2,924.01 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 appellant 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 and miscellaneous income). The NPA also proposed to assess a late filing penalty and interest. Appellant did not respond to the NPA; therefore, the NPA became final and payable.

4. FTB commenced collection action. Beginning on September 7, 2022, through December 11, 2023, FTB received regular payments that were applied to appellant's 2019 account balance due.
5. On December 30, 2024, appellant untimely filed a 2019 California Resident Income Tax Return, claiming a refund of overpayments.
6. FTB denied the claim for refund due to the expiration of the statute of limitations.
7. 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.)

The first four-year statute of limitations period does not apply here because appellant did not timely file a 2019 tax return by the extended due date. The second four-year statute of limitations period to file a claim for refund expired on April 15, 2024, four years from the original return due date of April 15, 2020.<sup>1</sup> (R&TC, § 18566.) The one-year statute of limitations period expired on December 11, 2024, one year from the date of the last payment on the 2019 account balance. Therefore, the later of the four-year or one-year statute of limitations period is December 11, 2024. As such, the claim for refund filed on December 30, 2024, is untimely pursuant to R&TC section 19306(a).

Here, appellant claims she was granted a partial refund because she made all, or nearly all, of the overpayments within one year of filing the claim for refund and asserts she is entitled to a refund of all overpayments.<sup>2</sup> Appellant provides no documentation in support of her assertion. FTB's records indicate that the last payment for appellant's 2019 account was received on December 11, 2023. Therefore, appellant's December 30, 2024 claim for refund

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<sup>1</sup> Due to the COVID-19 pandemic, FTB postponed the original due date to file a 2019 tax return from April 15, 2020, to July 15, 2020. However, that postponement did not change the original due date of April 15, 2020, upon which the four-year statute of limitations for a claim for refund is based. (*Appeal of Nguyen*, 2025-OTA-333P.)

<sup>2</sup> It is unclear if appellant is claiming a partial refund was granted for the year on appeal or another year. Nevertheless, the record does not reflect a partial refund was issued for the 2019 tax year.

was filed more than one year after the last overpayment, which is after the expiration of the statute of limitations.

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. (See *Ibid.*) Appellant has not established the claim for refund was timely.

HOLDING

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

DISPOSITION

FTB’s action is sustained.

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*Erica Parker*  
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Erica Parker  
Hearing Officer

We concur:  
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*Sheriene Anne Ridenour*  
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Sheriene Anne Ridenour  
Administrative Law Judge

DocuSigned by:  
*Sara A Hosey*  
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Sara A. Hosey  
Administrative Law Judge

Date Issued: 3/11/2026