

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
J. WANG) OTA Case No. 250218748
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OPINION

Representing the Parties:

For Appellant: Matthew Briglio, CPA

For Respondent: Ariana Macedo, Graduate Legal Assistant

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19331, J. Wang (appellant) appeals respondent Franchise Tax Board’s (FTB) deemed denial of appellant’s claim for refund of \$10,833 for the 2019 tax year.

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether appellant’s claim for refund of nonwage withholding 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 a Request for Tax Return.
3. After appellant failed to respond to the Request for Tax Return for the 2019 tax year, FTB issued a Notice of Proposed Assessment (NPA), which estimated appellant’s total income and tax liability based on information reported by third parties (i.e., wages, interest income, dividend income, Schedule K-1 income, and 1099-B proceeds from a broker and/or barter exchange). The NPA also proposed to impose the late filing penalty and interest. Appellant did not respond to the NPA; therefore, the NPA became final and payable.

4. FTB commenced collection actions and imposed a collection cost recovery fee of \$332 on appellant's 2019 account balance.
5. On April 15, 2024, appellant and appellant's spouse filed a 2019 California Resident Income Tax Return with a filing status of married filing jointly.¹ Appellant's joint return reported zero total tax and zero withholding. FTB accepted the return as filed.
6. On May 31, 2024, appellant paid the outstanding collection cost fee of \$332 that remained on appellant's 2019 account balance.
7. On July 31, 2024, appellant and appellant's spouse jointly filed an amended 2019 California return, reporting nonwage withholding of \$10,833 and requesting a refund of \$10,833.
8. FTB accepted the return as filed and treated it as a claim for refund. FTB issued a refund of the May 31, 2024 payment of \$332, plus interest.
9. Appellant's remaining claim for refund of nonwage withholding of \$10,833 was deemed denied when FTB did not issue a determination within six months after the claim was filed. This 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 as 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, 2020.² (R&TC, § 18566.) The one-year statute of limitations period expired on April 15, 2021, because withholding credits are deemed to be paid on the original

¹ Although appellant and appellant's spouse jointly filed their 2019 return, only appellant filed this appeal.

² 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.)

return due date, in this case April 15, 2020. (R&TC, § 19002(c)(1).) Therefore, the later of the four-year or one-year statute of limitations periods is April 15, 2024. As such, the claim for refund filed on July 31, 2024, is untimely pursuant to R&TC section 19306(a).

On appeal, FTB argues appellant's claim for refund of nonwage withholding of \$10,833 was filed after the expiration of the statute of limitations. Appellant does not argue that the claim for refund filed on July 31, 2024, was timely. Rather, appellant contends that FTB acted in bad faith by not discovering the unreported nonwage withholding when FTB issued appellant the NPA estimating appellant's tax liability and payments. Appellant further alleges that FTB knew of the nonwage withholding and that FTB is in breach of its fiduciary duty by not refunding funds that belong to appellant. Appellant provides no legal authority or citations in support of his assertions.

Contrary to appellant's argument, FTB has no duty to discover a taxpayer's overpayments of income tax or to notify the taxpayer of such overpayments. (See *Appeal of Cervantes* (74-SBE-029) 1974 WL 2844 [taxpayers' argument that FTB should have notified them of their overpayment did not permit taxpayers to file a claim for refund outside of the statute of limitations].) The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Cornbleth*, 2019-OTA-408P.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) 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. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

A claim for refund must state the specific grounds upon which it is founded. (R&TC, § 19322.) Here, appellant filed a return on April 15, 2024, reporting zero tax due and zero withholding. While it may appear unjust that FTB likely had information available as of April 15, 2024, to identify the unreported withholding, it is appellant's responsibility to timely request a refund of an overpayment of tax and to specify the grounds for the refund.³ Unfortunately, appellant filed his claim for refund on July 31, 2024, after the expiration of the statute of limitations. The untimely filing of a claim for refund bars a refund. (See *Appeal of Jacqueline Mairghread Patterson, supra.*) As such, appellant's claim for refund is barred by the statute of limitations.

³ R&TC section 19301 provides that *if* FTB finds there has been an overpayment of any tax liability, the amount of the overpayment *may* be credited against any amount then due from the taxpayer and the balance *shall* be refunded to the taxpayer. This provision does not require FTB to proactively discover an overpayment that the taxpayer failed to report. (See *Appeal of Cervantes, supra.*)

HOLDING

Appellant's claim for refund of nonwage withholding is barred by the statute of limitations.

DISPOSITION

FTB's deemed denial of appellant's claim for refund is sustained.

DocuSigned by:
Erica Parker
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Erica Parker
Hearing Officer

We concur:
Signed by:
Seth Elsom
C04CD432E3254FD...
Seth Elsom
Hearing Officer

DocuSigned by:
Teresa A. Stanley
0CC6C6ACCC6A44D...
Teresa A. Stanley
Administrative Law Judge

Date Issued: 2/19/2026