

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 250218856
J. WARD)
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OPINION

Representing the Parties:

For Appellant: J. Ward
J. Downs, Representative

For Respondent: Paige Chang, Attorney
Maria Brosterhous, Supervising Attorney

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Ward (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$2,991.79 for the 2018 taxable year.

Office of Tax Appeals (OTA) Panel Members Teresa A. Stanley, Steven Kim, and Greg Turner held a virtual oral hearing for this matter on January 22, 2026. At the conclusion of the hearing, the record was closed, and this matter was submitted for an opinion pursuant to California Code of Regulations, title 18, section 30209(b).

ISSUES

1. Is appellant’s claim for refund for taxable year 2018 barred by the statute of limitations?
2. If appellant’s claim for refund is not barred by the statute of limitations, has appellant established reasonable cause to abate the penalty for failure to respond to a Demand for Tax Return (demand penalty)?

FACTUAL FINDINGS

1. Appellant did not timely file a California Resident Income Tax Return (Return) for taxable year 2018.
2. FTB received information that appellant received wage income from Jones Lang LaSalle Americas, Inc. and interest income from Bank of America, N.A.

3. FTB sent a Demand for Tax Return to appellant indicating that FTB believed appellant had a tax filing requirement for 2018. FTB had previously issued a Request for Tax Return and Notice of Proposed Assessment (NPA) to appellant for the 2016 taxable year.
4. When appellant did not respond, FTB issued an NPA proposing total tax of \$44,350, a late-filing penalty, demand penalty, filing enforcement fee, and interest. After application of California wage withholdings of \$29,921, the NPA reflected net tax due of \$14,429, plus penalties, fees, and interest.
5. FTB sent appellant a State Income Tax Balance Due Notice and an Income Tax Due Notice, followed by a Final Notice Before Levy and Lien on September 22, 2021, showing a total balance due of \$31,525.73, which appellant paid on September 27, 2021.
6. On January 10, 2025, appellant filed her Return, reporting total tax of \$42,378 and payments of \$61,447. After self-assessing a penalty of \$255 for underpayment of estimated tax, appellant reported an overpayment of \$18,814, for which she requested a refund.
7. FTB accepted appellant's return and adjusted the penalties and interest accordingly.
8. After deducting total tax, penalties, fees, and interest, FTB calculated an overpayment of \$2,991.79, which FTB denied as untimely.
9. Appellant filed this timely appeal.

DISCUSSION

Issue 1: Is appellant's claim for refund for taxable year 2018 barred by the statute of limitations?

With certain exceptions not applicable 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 2018 tax return by April 15, 2019, the original due date for the return, or by the extended due date of October 15, 2019. (R&TC, §§ 18566, 18567(a)(1); Cal. Code Regs., tit. 18, § 18567(a).) The first four-year statute of limitations period described in R&TC section 19306(a) is inapplicable because appellant did not file a return within the extended period to file. The second four-year statute of limitations period runs from the original due date for appellant's 2018 tax return, and thus expired on April 15, 2023, which is four years from the original due date of the return, on April 15, 2019. (R&TC, §§ 19306(a), 18566.) Appellant, however, filed her amended return (which is her claim for refund) on January 10, 2025, which is well beyond the four-year statute of limitations periods prescribed in R&TC section 19306(a).

Regarding the one-year statute of limitations, appellant's nonwage withholding credits of \$29,921 are deemed paid on the original due date of the return, April 15, 2019. (R&TC, §§ 19002(c)(1), 18566.) Thus, to be within the one-year statute of limitations, appellant must have filed a claim for refund on or before April 15, 2020. Appellant also made a payment of \$31,525.73 on September 27, 2021, and the one-year statute of limitations to file her claim for refund of that amount expired a year later on September 27, 2022. As such, appellant's claim for refund is barred by the one-year statute of limitations.

Appellant requests that OTA "find a fair outcome." Appellant contends that she is not looking for FTB to issue her a refund check but rather requests a credit toward other taxable year liabilities. Appellant contends that she has a good tax filing and payment history that OTA should consider. Appellant also asserts that extenuating circumstances contributed to her failure to file her 2018 claim for refund on time; namely, that she was in a severe accident in 2018 that required surgery and also caused her to be limited in her ability to work for approximately six months. Subsequently, appellant contends the COVID-19 pandemic wreaked "complete and utter havoc" on the commercial real estate industry and appellant's clients.

However, the statute of limitations bars a refund *or credit* unless the claim is filed on time. (See R&TC, § 19306(a).) Moreover, appellant's good tax filing and payment history have no bearing on whether a claim is barred by the statute of limitations. Financial disability may suspend the statute of limitations during any period where a taxpayer is "financially disabled," meaning that the 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. (R&TC, § 19316(a), (b).) By her own testimony, appellant's severe accident and ensuing surgery only negatively affected her for a period of six months to one year, which would have concluded at

the latest by mid-2019 and does not explain why appellant was unable to file her claim for refund until January 10, 2025. Lastly, although OTA appreciates appellant’s argument that there were negative effects to her businesses due to the COVID-19 pandemic, such arguments are based on reasonable cause, and there is no reasonable cause or equitable basis for suspending the statute of limitations. (See *Appeal of Benemi Partners, L.P.*, *supra*.) Accordingly, appellant’s claim for refund is barred by the statute of limitations.

Issue 2: If appellant’s claim for refund is not barred by the statute of limitations, has appellant established reasonable cause to abate the demand penalty?

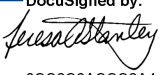
As discussed above, appellant’s claim for refund is barred by the statute of limitations. As such, even if OTA were to abate or reduce the demand penalty, FTB would not be able to refund the amount to appellant.

HOLDINGS

1. Appellant’s claim for refund for taxable year 2018 is barred by the statute of limitations.
2. Because appellant’s claim for refund is barred by the statute of limitations, OTA does not consider whether appellant established reasonable cause to abate the demand penalty.

DISPOSITION

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

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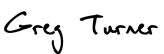
 Teresa A. Stanley
 Administrative Law Judge

We concur:

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 Steven Kim
 Administrative Law Judge

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 Greg Turner
 Administrative Law Judge

Date Issued: 3/11/2026