

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 250118608
M. KHORRAMINEJAD AND)
S. KAVOUSI)
_____)

OPINION

Representing the Parties:

For Appellants: M. Khorraminejad
S. Kavousi

For Respondent: David Muradyan, Attorney

K. SHELTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Khorraminejad and S. Kavousi (appellants) appeal an action by the Franchise Tax Board (respondent) denying appellants' claim for refund of \$5,935 for the 2019 tax year.

Appellants 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 appellants timely filed a claim for refund for the 2019 tax year.

FACTUAL FINDINGS

1. Appellants timely filed their Form 540, California Resident Income Tax Return (Return), for the 2019 tax year on July 15, 2020. Although appellants fully paid the total tax that they reported on the Return, they did not claim a credit of \$7,006 on their Return for taxes that had been withheld from the proceeds of a sale of real property during the 2019 tax year.
2. On February 21, 2024, respondent issued each appellant a separate Unclaimed Nonwage Withholding Credits letter (Letter), which informed each appellant that they may have been entitled to a nonwage withholding credit of \$3,503 (for a total of \$7,006)

- if they filed an amended Return. Each Letter further noted that each appellant may not be entitled to a refund or credit unless appellant filed the amended Return within four years of either the original filing due date of the Return or the date that the Return was filed, or within one year that appellant made the withholding payment.
3. On August 8, 2024, appellants filed an amended Return on which they reported a credit for taxes withheld of \$7,006 and claimed a refund in that amount.
 4. On December 12, 2024, respondent issued appellants a Statute of Limitations notice, which notified appellants that they had an overpayment of \$5,935 but were not entitled to a refund because appellants had filed their refund claim untimely under the statute of limitations.¹
 5. Appellants timely filed this appeal.

DISCUSSION

If a taxpayer has an overpayment of an income tax liability, no credit or refund will be allowed unless the taxpayer files a claim for refund within the later of: (1) four years from the date the return was filed, if the return was timely filed within an extended due date pursuant to an extension of time to file; (2) four years from the due date for filing a return (determined without regard to any extension of time to file); or (3) one year from the date of the overpayment. (R&TC, § 19306(a).)

Individual income tax returns are generally due on or before the 15th day of April following the close of the calendar year. (R&TC, § 18566.) The original filing due date for a return for the 2019 tax year was April 15, 2020, but the filing date was extended to July 15, 2020, because of the COVID-19 pandemic. (R&TC, § 18566; www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-5-april-15-tax-day-postponed-until-july-15-2020.html.) However, the postponement of the filing date for returns for the 2019 tax year did not change the original filing date or impact the four-year deadline for filing a claim for refund. (*Appeal of Nguyen*, 2025-OTA-333P.) Taxes that were withheld are deemed to have been paid on the original due date of the tax return, without regard to any extension of time. (R&TC, § 19002(c)(1); *Appeal of Nguyen*, *supra*.)

The taxpayer has the burden of proof in showing entitlement to a credit or refund and that the claim is timely. (Cal. Code Regs., tit. 18, § 30219(a)-(b); *Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) The language of the statute of limitations must

¹ The amount of refund that appellants claimed on the amended Return was \$7,006, but the amount of refund claim that respondent disallowed, and which appellants now appeal, was \$5,935. The reason for this discrepancy is unclear.

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 even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*)

Appellants timely filed their Return on July 15, 2020. (R&TC, § 18566; www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-5-april-15-tax-day-postponed-until-july-15-2020.html.) They filed their amended Return, which also served as their refund claim, on August 8, 2024, which was more than four years from the date that they filed the Return. Therefore, appellants did not file their refund claim timely under the applicable first test of R&TC section 19306(a). Appellants' tax was paid by withholding, and the date of payment of withheld taxes is the original due date of the return, which was April 15, 2020. (R&TC, § 19002(c)(1); *Appeal of Nguyen, supra.*) Appellants filed the refund claim on August 8, 2024, which is more than one year after the taxes were withheld. Therefore, appellants did not file the refund claim timely under the third test of R&TC section 19306(a).

Appellants argue that the "withholding is a tax payment[,] not a refund[,] and it's like paying excess tax so it should be refunded to me accordingly." Appellants are correct in that they have paid excess taxes, but the statute requires appellants to have filed the claim for the refund of the excess, or overpaid, withholding taxes within a certain period of time, which they did not do. (R&TC, § 19306(a).)

Appellants make two additional arguments for why their claim for refund should not be disallowed. First, appellants claim that the escrow agent did not send them any notice or letter informing them that there was withholding on proceeds from the sale of real estate. Regardless as to whether this fact is true, appellants were notified by the Letters that they potentially had a credit for taxes that were withheld. The Letters were issued more than four months prior to the expiration of the period for filing a refund claim, thereby providing appellants with advance notice of the withholding credits and the overpayment.

Moreover, appellants' claim that they did not receive notice from the escrow agent of the withholding of taxes appears to be more in the nature of a "reasonable cause" argument, that is, that appellants' failure to timely file the refund claim occurred because appellants were not provided with notice by the escrow agent that taxes were withheld from the sale of real estate, despite appellants' exercise of ordinary care and prudence. (*Contra Appeal of Moren*, 2019-OTA-176P.) However, reasonable cause is not an exception to the statutory period for filing a refund claim. (*Appeal of Benemi Partners, L.P., supra.*)

Second, appellants argue that they did not know that they should have filed an amended tax return to claim the refund. On February 21, 2024, respondent issued each appellant a Letter

that notified them of their potentially unclaimed withholding credits, and that a timely amended return, which functioned as a refund claim, needed to be filed if appellants wished to be refunded those withholding credits. Thus, respondent actually informed appellants of the need to timely file an amended return. Moreover, ignorance of the requirement to file an amended return to claim the refund does not excuse appellants' untimely filing of the claim for refund. (See *Appeal of Cremel and Koepfel*, 2021-OTA-222P.)


Accordingly, appellants did not timely file their refund claim.

HOLDING

Appellants did not timely file a claim for refund for the 2019 tax year.


DISPOSITION

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


Signed by:


L. Katrine Shelton
Administrative Law Judge

We concur:

Signed by:


Josh Lambert
Administrative Law Judge

DocuSigned by:


Kenneth Gast
Administrative Law Judge

Date Issued: 3/11/2026