2026-OTA-260
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:

A. HARROSH AND
S. HARROSH

OTA Case No. 250822965

OPINION

Representing the Parties:

For Appellants:	A. Harrosh and S. Harrosh
For Respondent:	Christian Bankard, Graduate Legal Assistant
For Office of Tax Appeals:	Michelle Huh, Attorney

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, A. Harrosh and S. Harrosh (collectively, appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of $9,049.28 for the 2020 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' claim for refund is barred by the statute of limitations.

FACTUAL FINDINGS

1. On October 15, 2020, appellant A. Harrosh made estimated tax payments totaling $2,240.
2. FTB sent appellant A. Harrosh a notice, stating that FTB received estimated tax payments for the 2020 tax year but did not have a record of a 2020 return on file.
3. On September 12, 2022, appellants' accountant sent FTB a letter, stating the following: "In October 2021, I completed [appellant A. Harrosh's] 2020 taxes and he filed a paper return jointly with his wife . . . . Please review your files for his taxes." On

September 12, 2022, appellants' accountant sent an email to appellant A. Harrosh with a copy of the "mailed letter and the proof of mailing for [appellant A. Harrosh's] files." Appellants provide a U.S. Postal Service Certified Mail Receipt addressed to FTB with a postmark date of September 12, 2022.

4. FTB sent another notice to appellant A. Harrosh requesting a 2020 tax return. When FTB did not receive a response to the request, FTB issued to appellant A. Harrosh a Notice of Proposed Assessment (NPA), proposing to assess a tax of $7,047 and a late filing penalty of $1,761.75, plus interest.
5. Appellants did not respond to the NPA, and the proposed liability became due and payable.
6. FTB commenced collection actions. On April 15, 2024, FTB received a payment of $7,141.28 from appellants.
7. On June 5, 2025, appellants filed a 2020 California Resident Income Tax Return (return) with a filing status of married filing jointly, requesting a refund of $2,240. Appellants signed the return on June 1, 2025.
8. FTB processed the return, determined an overpayment of $9,049.28, and treated the return as a claim for refund. FTB denied the claim for refund due to the expiration of the statute of limitations.
9. This timely appeal followed.
10. On appeal, FTB provides a copy of appellants' federal account transcript for the 2020 tax year, showing that appellants filed a 2020 federal joint return on June 1, 2025.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. 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 due date for filing the return (determined without regard to any extension of time to file); or (3) one year from the date of the overpayment. Taxpayers have the burden of proving entitlement to a refund and that the claim is timely. (Cal. Code Regs., tit. 18, § 30219(a); *Appeal of Estate of Gillespie*, 2018-OTA-052P.) Unsupported assertions are insufficient to satisfy taxpayers' burden of proof. (*Appeal of Moren*, 2019-OTA-176P.)

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Fischer*, 2024-OTA-518P.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) Absent an exception, the taxpayers' 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.*) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*)

To prove that a paper return was timely mailed, taxpayers must show evidence, such as a registered or certified mail receipt, that the return was timely mailed, and thus timely filed, with FTB. (Gov. Code, § 11003; R&TC, § 21027; Cal. Code Regs., tit. 18, § 30219(a); *Appeal of Fisher*, 2022-OTA-337P.) For documents sent through U.S. Postal Service certified mail, the postmark date on the sender's receipt is treated as the postmark date. (R&TC, § 21027(b).)

Here, appellants assert that they timely filed a 2020 return on October 22, 2021, and filed a second copy of their 2020 return on September 12, 2022. Appellants provide a letter from their accountant as evidence that their return was timely mailed, and a copy of the certified mailing receipt showing a postmark date of September 12, 2022. Appellants assert that a copy of their tax return was included with the accountant's September 12, 2022 letter.

Appellants have not provided evidence, such as a certificate of mailing, to support their contention that they filed a 2020 return on October 22, 2021. Without more, appellants' letter from their accountant is an unsworn statement, which cannot satisfy appellants' burden of proof. (*Appeal of Estate of Gillespie*, *supra*; Cal. Code of Reg., tit. 18, § 30214(f)(5).) Furthermore, the letter merely states that the accountant completed the 2020 return in October 2021, and that appellants filed the paper return. Evidence that a return was prepared prior to the due date does not, in itself, prove a filing of the return. (*Appeal of La Salle Hotel Company* (66-SBE-071) 1966 WL 1412.) Thus, appellants fail to substantiate that they mailed their 2020 return on October 22, 2021.

As for appellants' assertion that they also filed their return on September 12, 2022, the accountant's letter does not indicate that a copy of the tax return was included; in fact, the letter requests that FTB review its files for the return. Appellants provide a certified mailing receipt addressed to FTB with a postmark date of September 12, 2022, but this creates a presumption that the accountant's letter dated September 12, 2022, not a copy of a return, was sent to FTB. Based on the various notices that FTB sent to appellant A. Harrosh after September 12, 2022, appellants were aware that FTB did not have appellants' 2020 return on file. Furthermore, appellants' federal account transcript shows that appellants filed their 2020 federal joint return on June 1, 2025, which is a strong indicator that the California return was not filed in 2021 or 2022, despite appellants' assertions. (See *Appeal of La Salle Hotel Company*, *supra*.) Thus, appellants have not satisfied their burden of proof in showing entitlement to a refund and that the claim for refund is timely.

HOLDING

Appellants' claim for refund is barred by the statute of limitations.

DISPOSITION

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

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Erica Parker
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Erica Parker
Hearing Officer

We concur:

Signed by:
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Hans Famularo
Administrative Law Judge

Signed by:
Kim Wilson
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Kim Wilson
Hearing Officer

Date Issued: 3/25/2026