OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **J. PARDO**	OTA Case No. 250218834

OPINION

Representing the Parties:

For Appellant: J. Pardo

For Respondent: Ariana Macedo, Attorney
Topher Tuttle, Attorney

G. TURNER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Pardo (appellant) appeals actions by the Franchise Tax Board (respondent) denying appellant's claims for refund of $657.17 for the 2018 tax year, and $1,441 for the 2019 tax year.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05(b).)

Office of Tax Appeals (OTA) Administrative Law Judge Greg Turner held a virtual oral hearing for this matter on December 16, 2025. At the conclusion of the oral hearing, the record was closed, and this matter was submitted on the oral hearing record pursuant to California Code of Regulations, title 18, section 30209(b).

ISSUE

Whether appellant timely filed a claim for refund for the 2019 tax year.[1]

FACTUAL FINDINGS

1. Appellant was born and raised in Spain. He became a resident of California in the mid-1990s to attend undergraduate school. While his post-graduate work took him to

[1] Respondent agreed to appellant's claim for refund for the 2018 tax year.

the East Coast for several years, his professional life returned him to California in 2001 where he resided until sometime in 2004 when his employer transferred him to Europe.

2. Appellant thereafter found his way back to Spain and for the succeeding 20 years, resided and raised his family there.
3. During his short tenure in California, appellant maintained various bank accounts as well as mutual fund accounts with California addresses. However, upon relocating to Europe, the addresses associated with those accounts were not updated to reflect appellant's relocation. As account-related documents were forwarded by these institutions to appellant electronically, there was no acute need to change the official address on file with these institutions.
4. Appellant returned to the United States in the fall of 2021 to the State of New Jersey where he presently resides. Not since his time in 2004 has appellant resided in California.
5. Appellant's new employer mistakenly reported withholding to the State of California during the month of October in 2021, mistakenly relying on appellant's former California address.
6. Sometime in November of 2023, appellant received a Multistate Refund Offset Notice, dated November 16, 2023, indicating a balance owed to the State of California for the 2018 tax year that would be offset against income tax refunds due from other states. This began appellant's discovery of additional notices from respondent having been sent to his prior California address, though he had not resided in California for two decades.
7. The assessed taxes were eventually traced to backup withholding made by a financial institution on distributions from one or more of the mutual funds owned by appellant the address of record for which remained his prior California address, despite appellant's relocation many years prior.
8. On December 26, 2024, appellant filed returns for the 2018, 2019, and 2020 tax years, and an amended return for the 2021 tax year, all claiming refunds for taxes collected or withheld.
9. For the 2019 tax year, appellant claimed a refund in the amount of $1,440, reflecting nonwage withholding made by appellant's financial institution.
10. On January 15, 2025, and January 14, 2025, respondent sent appellant Statute of Limitations Notices denying appellant's claims for refund for the 2018 and 2019 tax years, respectively, on the grounds they were filed after the expiration of the statute of limitations.

11. Appellant timely filed this appeal. On appeal, respondent agrees to refund or credit $657.17 for the 2018 tax year.

DISCUSSION

The taxpayer has the burden of proof to show entitlement to a refund and that the claim for refund is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) Unsupported assertions are insufficient to meet this burden. (*Appeal of Bindley*, 2019-OTA-179P.) R&TC section 19306 imposes a statute of limitations to file a claim for refund. 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 within the extended filing period pursuant to an extension of time to file; (2) four years from the due date prescribed for filing the return (determined without regard to any extension of time for filing the return); or (3) one year from the date of the overpayment. For the purposes of R&TC section 19306(a), nonwage withholding is deemed paid on the last day prescribed for filing a return. (See R&TC, § 19002(c).)

Because appellant did not timely file an original income tax return for the 2019 tax year, the applicable statute of limitations is four years from the due date prescribed for filing the return (determined without regard to any extension of time for filing the return). Since appellant resided outside the United States, the due date for his 2019 tax return was June 15, 2020. (R&TC, § 18567(a)(2)(A).) Although the normal filing deadline for the 2019 tax year was postponed to July 15, 2020, due to COVID-19, this did not change the original statutory due date of return which is the basis for calculating the expiration of the four-year statute of limitations. (*Appeal of Nguyen*, 2025-OTA-333P.) Consequently, the statute of limitations for filing the claim for refund for the 2019 tax year expired on June 15, 2024, well before December 26, 2024, when appellant filed the 2019 return that was treated by respondent as the claim for refund.

Because the amounts at issue were the product of nonwage withholding, which are deemed paid on the last day prescribed for filing the return, June 15, 2020, the one-year statute of limitations expired on June 15, 2021.

Appellant's primary contention on appeal is that during the year at issue he was not a resident of California and therefore owed no taxes to California. Additionally, he asserts that his financial institution made the nonwage withholding in error. And lastly, because respondent was relying on a California address that appellant had not resided at for almost twenty years, he did not receive notice of the nonwage withholding or the assessments that were made against him.

Appellant's residency is not in dispute. While residency may ultimately impact appellant's tax obligations, appellant must first establish the right to make the refund claim. Similarly, respondent's use of appellant's old address, as reported on the nonwage withholding by appellant's financial institution, or whether appellant's financial institution appropriately withheld amounts for California tax purposes, are not grounds for relief for establishing the right to make the refund claim.

The language of R&TC section 19306 is explicit and strictly construed. (*Appeal of Cornbleth*, 2019-OTA-408P.) A taxpayer's failure to file a claim for refund, *for whatever reason*, within the statutory period bars the taxpayer from doing so later, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Except for some narrow circumstances associated with financial disability which appellant has not alleged here,[2] a taxpayer's failure to file a claim for refund within the statutory period bars a refund. (*Ibid*.) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid*.) The statute of limitations may appear harsh, and there is generally no reasonable cause or equitable basis for suspending the statute of limitations. (*U.S. v. Brockamp* (1997) 519 U.S. 347; *Appeal of Benemi Partners, L.P*., *supra*.) Neither the ill health of a taxpayer, nor any other unfortunate circumstances can extend the statute of limitations for filing a claim for refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) Therefore, OTA lacks power to provide relief beyond the specific authority provided by statute.

Because appellant filed the claim for refund on December 26, 2024, outside the statute of limitations period, and there are no applicable exceptions, this claim for refund is time-barred.

[2] R&TC section 19316(a) provides that the time for filing a claim for refund may be suspended if a taxpayer is "financially disabled," as defined in R&TC section 19316(b). The running of the period for filing a claim for refund pursuant to R&TC section 19306 is suspended if: (1) an individual 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; and (2) there is no spouse or other legally authorized person to act on the taxpayer's behalf in financial matters. (R&TC, § 19316(b).) When a taxpayer alleges financial disability as cause to suspend the statute of limitations period to file a timely claim for refund, a physician's affidavit must be provided that identifies the disability period when the taxpayer was unable to manage his or her financial affairs and that period must occur during the limitations period. (*Appeal of Estate of Gillespie*, *supra*.)

HOLDING

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

DISPOSITION

Respondent's action is modified to credit or refund to appellant $657.17 for the 2018 tax year, as conceded by respondent. Respondent's action for the 2019 tax year is sustained.

Signed by:
Greg Turner
1B8F50433F1D4D5...

Greg Turner
Administrative Law Judge

Date Issued: 3/18/2026