2026-OTA-258
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **K. DUTRA AND** **D. DUTRA**	OTA Case No. 240616332

OPINION

Representing the Parties:

For Appellants: K. Dutra
D. Dutra

For Respondent: Roya Dowalti, Graduate Student Intern

For Office of Tax Appeals: Namrita Randhawa, Program Specialist

Pursuant to Revenue and Taxation Code (R&TC) 19324, K. Dutra and D. Dutra (appellants) appeal an action by the Franchise Tax Board (respondent) denying appellants' claim for refund of $9,885.08 for the 2018 tax year.[1]

Appellants 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 appellants' claim for refund for the 2018 tax year is barred by the statute of limitations.

[1] Appellants' appeal letter lists $10,221.08 as the amount in dispute. This is the total amount of payments respondent received from appellants on January 31, 2023, less a nonrefundable collection cost fee of $316 and a nonrefundable collection lien fee of $20.

FACTUAL FINDINGS

1. Appellants did not timely file a 2018 tax return.
2. On June 22, 2021, respondent sent K. Dutra a Request for Tax Return (Request) stating that respondent received mortgage interest payment information from a third party, indicating that she may have earned income that required appellants to file a California tax return. The Request required K. Dutra to either file a 2018 tax return, provide evidence that she already had filed a return, or explain why she did not have a filing requirement.
3. When K. Dutra did not respond, respondent issued a Notice of Proposed Assessment (NPA) on August 26, 2021, which estimated K. Dutra's income and proposed an assessment of tax of $6,752, a late- filing penalty of $1,688, and applicable interest. The NPA informed K. Dutra that unless respondent received a 2018 tax return or protest by October 26, 2021, the proposed assessment will become due and payable.
4. On November 8, 2021, K. Dutra protested the NPA but respondent did not accept it because it was untimely.
5. Respondent commenced collection actions. On January 31, 2023, respondent received two payments totaling $10,221.08.
6. On March 24, 2024, appellants untimely filed their 2018 California Resident Income Tax Return, reporting taxable income of $6,798, total tax of zero, and an overpayment of $9,982.
7. Respondent accepted the return as filed. Respondent treated the return as a claim for refund and, on April 17, 2024, denied the refund in the amount of $9,885.08, stating that it was filed outside the statute of limitations.
8. This timely appeal followed.

DISCUSSION

R&TC section 19306 imposes a statute of limitations to file a claim for refund. R&TC section 19306(a) provides, in part, 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. The taxpayer has the burden of proof in showing entitlement to a refund and that the claim for refund is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

Because appellants did not file a timely tax return, the first four-year statute of limitations period is inapplicable. The second statute of limitations period expired on April 15, 2023, or four years from April 15, 2019, original due date. (R&TC, § 18566.) Appellants' return was not filed until March 24, 2024, and is thus barred under the second four-year statute of limitations period. The one-year statute of limitations period expired on January 31, 2024, which is one year following the date of appellants' last payment. Therefore, appellants' claim for refund is also untimely under the one-year statute of limitations.

Appellants argue that they did not have a filing requirement for 2018 because their wages fell below the filing requirement threshold. Appellants explain that they made mortgage payments that year by taking out another loan. Appellants contend they called respondent in 2021 to explain what had happened and believed no further action was required. Appellants also argue that the four-year statute of limitations should begin on June 22, 2021, when respondent first requested a 2018 return from appellants.

The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*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*.) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid*.) While fixed deadlines may appear harsh because they can be missed, the resulting occasional harshness is redeemed by the clarity imparted. (*Ibid*.) Moreover, respondent has no duty to inform a taxpayer of the time within which a claim must be filed. (*Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856.) A taxpayer's failure, for whatever reason, to file a claim for refund or credit within the statutory period prevents the taxpayer from doing so at a later date. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) Although OTA is sympathetic to the situation described by appellants, OTA does not have the authority to provide the relief appellants seek. (*Ibid*.)

HOLDING

Appellants' claim for refund for the 2018 tax year is barred by the statute of limitations.

DISPOSITION

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

DocuSigned by:
Sheila Pacheco For
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Natasha Ralston
Administrative Law Judge

We concur:

Signed by:
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Hans Famularo
Administrative Law Judge

DocuSigned by:
For
43E5DCA21D8D46B...
L. Katrine Shelton
Administrative Law Judge

Date Issued: 3/23/2026