OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **R. KENNEDY AND** **M. KENNEDY**	OTA Case No. 241118055

OPINION

Representing the Parties:

For Appellants: R. Kennedy and M. Kennedy

For Respondent: Ganeet Atwaal, Legal Analyst

For Office of Tax Appeals: Linda Frenklak, Attorney

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Kennedy and M. Kennedy (appellants) appeal actions by respondent Franchise Tax Board (FTB) denying appellants' claims for refund of $3,101 for the 2018 tax year and $2,270 for the 2019 tax year.

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' claims for refund for the 2018 and 2019 tax years are barred by the statute of limitations.

FACTUAL FINDINGS

1. On October 24, 2024, appellants filed California Resident Income Tax Returns (returns) for the 2018 and 2019 tax years. On the 2018 return, appellants claimed withholding credits of $20,918 and an overpayment of $3,101. On the 2019 return, appellants claimed withholding credits of $16,588 and an overpayment of $2,270.
2. FTB accepted appellants' 2018 and 2019 returns as filed and treated them as claims for refund. FTB did not credit or refund the overpayments to appellants because FTB

determined that appellants filed their 2018 and 2019 returns outside the statute of limitations period for making a refund claim.

3. FTB issued appellants claim denial notices for tax years 2018 and 2019.
4. This timely appeal followed.

DISCUSSION

The law generally requires taxpayers to file their refund claims by the later of: (1) four years from the date the return is filed, if filed on or before the extended due date; (2) four years from the due date of the return without regard to any extensions; or (3) one year from the date of overpayment. (R&TC, § 19306(a).) With respect to the one-year statute of limitations, withholding credits are deemed paid on the original due dates for the tax returns. (R&TC, § 19002(c)(1).) Appellants do not dispute that their refund claims were not filed within the statute of limitations period.

Appellants request that their claims for refund be granted because they were unaware of the statute of limitations and they endured multiple personal hardships, including the 2018 Camp Fire in Butte County, COVID-19, and additional health issues.

Absent a legislatively-enacted exception to the statute of limitations, OTA does not have the authority to grant an untimely refund claim to achieve a more equitable result for taxpayers or to avoid a seemingly harsh outcome. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) The statute of limitations for filing a refund claim must be strictly construed; in other words, a taxpayer's untimely filing of a refund claim for *any reason* bars a refund. (*Appeal of Benemi Partners, L.P.,* 2020-OTA-144P.) Thus, while OTA is sympathetic to the situation described by appellants, OTA is unable to provide the relief appellants seek.

HOLDING

Appellants' claims for refund for the 2018 and 2019 tax years are barred by the statute of limitations.

DISPOSITION

FTB's actions are sustained.

Signed by:
Veronica I. Long
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Veronica I. Long
Administrative Law Judge

We concur:

Signed by:
L. Katrine Shelton
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L. Katrine Shelton
Administrative Law Judge

Signed by:
Kim Wilson
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Kim Wilson
Hearing Officer

Date Issued: 4/3/2026