OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 251023576

C. SILVA AND
L. SILVA

OPINION

Representing the Parties:

For Appellants: C. Silva and L. Silva

For Respondent: Vivian Ho, Attorney

G. TURNER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Silva (appellant-husband) and L. Silva (appellant-wife) (collectively, appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of $4,128.65 for the 2018 tax year.

Appellants 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).) 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.

FACTUAL FINDINGS

1. FTB received information from third parties indicating that appellants might have sufficient income in 2018 to be required to file a tax return.
2. On December 1, 2020, FTB sent appellant-wife a Demand for Tax Return (Demand).
3. On February 9, 2021, FTB sent appellant-husband a Demand for Tax Return (Second Demand).

4. On June 22, 2021, FTB re-issued the Second Demand to appellant-husband using a new mailing address.
5. On August 27, 2021, after FTB did not receive a reply to either the Demand or Second Demand, FTB issued a Notice of Proposed Assessment (NPA) to appellant-husband proposing tax due based on available information, plus fees, penalties, and interest, for a total of $5,684.28.
6. Appellants did not protest the NPA and it became final.
7. On November 22, 2021, FTB sent a State Income Tax Balance Due Notice to appellant-husband reflecting the amount due for the 2018 tax year.
8. On July 15, 2025, appellants untimely filed a California Resident Income Tax Return for the 2018 tax year claiming an overpayment of $5,181 and requested that it be refunded.
9. FTB accepted the return as filed and treated it as a claim for refund. Based on information in FTB's records, FTB recognized additional payments of $378.85 and adjusted the fees, penalties, and interest. Accordingly, FTB calculated a total overpayment of $4,128.65 for the 2018 tax year.
10. On August 6, 2025, FTB notified appellants that their claim for refund was denied because it was filed outside of the statute of limitations.
11. This timely appeal followed.

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.)

Appellants do not dispute that their refund claim was untimely filed. Rather, appellants assert that there was reasonable cause for the untimely filing. Specifically, appellant-wife experienced significant personal hardships which were described on appeal. Appellants also note the significant financial hardship FTB's wage garnishment has put on their finances and this refund would significantly ameliorate that burden. Appellants note they previously and subsequently have been meeting their tax filing and payment obligations.

The language of R&TC section 19306 is explicit and is strictly construed. (*Appeal of Benemi Partners, L.P*., 2020-OTA-144P.) There is no reasonable cause or equitable basis to suspend the statute of limitations. (*Ibid*.) Absent an exception which is not present here,[1] appellants' untimely filing of a claim for any reason bars a refund. (*Ibid*.) Although OTA is sympathetic to appellants' circumstances, OTA lacks the legal authority to grant appellants' untimely refund claims based on equitable grounds. (*Appeal of Estate of Gillespie*, *supra*.) Each taxpayer has a personal, nondelegable obligation to ensure the timely filing of a tax return. (*U.S. v. Boyle* (1985) 469 U.S. 241, 251-252; *Appeal of Quality Tax & Financial Services, Inc.*, 2018-OTA-130P.) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Benemi Partners, L.P*., *supra*.) Thus, appellants' refund claim for the 2018 tax year is barred by the statute of limitations and cannot be refunded to them.

HOLDING

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

DISPOSITION

FTB's action denying appellants' claim for refund for the 2018 tax year is sustained.

Signed by:
Greg Turner
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Greg Turner
Administrative Law Judge

Date Issued: 5/14/2026

[1] R&TC section 19316 suspends the running of the statute of limitations during any period where the 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 expected to last for a continuous period of not less than 12 months. A taxpayer is not considered to be "financially disabled" for any period during which that taxpayer's spouse is authorized to act on their behalf in financial matters. (R&TC, §19316(b).)