OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **D. DELGADO AND** **R. DELGADO**	OTA Case No. 250118597

OPINION

Representing the Parties:

For Appellants:	Jim Beckstead, EA D. Delgado R. Delgado
For Respondent:	Shah Khan, Program Specialist Bradley J. Coutinho, Assistant Chief Counsel

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, D. Delgado and R. Delgado (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of $3,608 for the 2019 taxable year.

Office of Tax Appeals (OTA) Panel Members Teresa A. Stanley, Sara A. Hosey, and L. Katrine Shelton held a virtual oral hearing for this matter on January 15, 2026. At the conclusion of the hearing, the record was closed; however, OTA reopened the record seeking additional briefing from the parties. Following receipt of the parties' additional briefs, OTA closed the record on March 18, 2026, and this matter was submitted for an opinion pursuant to California Code of Regulations, title 18, section 30209(b).

ISSUE

Is appellants' claim for refund for taxable year 2019 barred by the statute of limitations?

FACTUAL FINDINGS

1. Appellants filed a timely 2019 California tax return on February 22, 2020. The return reported total tax of $8,950, wage withholding credits of $9,445, and an overpayment of $495. FTB refunded $495 to appellants on February 24, 2020.

2. On February 12, 2024, FTB sent a letter informing appellant D. Delgado that she may be entitled to non-wage withholding credits of $3,607.50.[1] The letter, under a heading "What You Need to Do," directs D. Delgado to "File an amended tax return to report the income and claim the withholding credit."
3. On June 13, 2024, appellants' representative contacted FTB about the $3,608 overpayment and was told that a refund check would be mailed out in three weeks. Again, on July 16, 2024, appellants' representative contacted FTB and was advised that a refund check would be issued in two to three weeks.
4. On August 15, 2024, appellants filed an amended California tax return, reporting the same total tax of $8,950 and wage withholding of $9,445 reported on their original return, plus nonwage withholdings of $3,608, and an overpayment of $4,103.[2]
5. FTB treated appellants' amended California tax return as a claim for refund of the nonwage withholdings of $3,608 and denied it, stating the claim was barred by the statute of limitations.
6. Appellants filed this timely appeal.
7. After the oral hearing, OTA reopened its record for the parties to address whether appellants' original California tax return constituted a claim for refund that included the nonwage withholdings. Appellants provided a copy of their federal tax return for 2019, which includes a Schedule D, Capital Gains and Losses, reporting gross proceeds of $108,333 and a basis of $108,333 with zero gain or loss. An attached "detail sheet" lists real estate tax withheld of $3,608.
8. FTB provided all pages of appellants' 2019 federal tax return that were filed along with their California tax return. The federal tax return documents do include the federal Schedule D showing a sale of an "inherited house" with gross proceeds and a basis of $108,333, but do not include the detail sheet showing real estate tax withheld of $3,608.

DISCUSSION

California law generally requires that taxpayers file a claim for refund by the later of the following dates: (1) four years from the date the return is filed, if the return was filed within the extended filing period; (2) four years from the due date of the return, without regard to

[1] FTB's records show that the nonwage withholdings were adjusted by $0.50, and FTB denied appellants' overpayment of $3,608.

[2] Appellants' overpayment amount did not reflect the $495 that was refunded to them in early 2020 ($4,103 - $495 = $3,608).

extensions; or (3) one year from the date of overpayment. (R&TC, § 19306(a).) California state income tax returns for individuals are due on April 15 following the close of the calendar year. (R&TC, § 18566.) For purposes of the one-year statute of limitations, any tax deducted and withheld during any calendar year is deemed to have been paid on the original due date for filing the return. (R&TC, § 19002(c)(1).)

The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The failure to file a claim for refund within the statute of limitations bars a refund, even if it is later shown the tax was not owed in the first place. (*Ibid*.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid*.) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity of the legal obligation imparted. (*Ibid*.)

Appellants timely filed a return for the 2019 taxable year on February 22, 2020, which notified FTB of wage withholding credits totaling $9,445. As appellants filed their original return before the due date for the return, it is deemed filed on April 15, 2020. (See R&TC, §§ 19066(b), 19002(d)(1).) Because appellants' return is deemed filed on the due date and not within an extension of time to file, the second four-year statute of limitations period applies. Thus, to be timely, a claim for refund must have been filed by April 15, 2024. Here, appellants filed the claim for refund, i.e., the amended return for the 2019 taxable year, on August 15, 2024. Therefore, the refund is barred by the four-year statute of limitations.

Regarding the one year-statute of limitations, tax withholdings, whether wage related or nonwage withholdings, are deemed paid on April 15, 2020. (See R&TC, § 19002(c)(1).) To be timely under the one-year statute of limitations, a claim for refund of withholdings must have been filed by April 15, 2021. As previously stated, appellants filed the claim for refund on August 15, 2024. Therefore, the refund is barred by the one-year statute of limitations.

Appellants assert that when FTB issued a letter informing them that they may be entitled to nonwage withholding credits, they thought the letter was a scam. Therefore, they provided the letter to their tax preparer, who subsequently phoned FTB to determine whether it was legitimate. Appellants contend that their representative spoke to FTB on three occasions and were told the money would be refunded within a few weeks. Appellants claim they were unaware of the statute of limitations until they received FTB's denial of their claim for refund.

Although appellants did not initially trust the February 12, 2024 letter FTB sent to them, it did in fact apprise them of the statute of limitations. The letter has a section entitled "What You Need to Do." In that section of the letter, appellants were instructed to "[f]ile an amended tax return to report the income and claim the withholding credit." The section of the letter entitled "If

You Do Not Respond," sets forth the different statute of limitations periods pursuant to R&TC section 19306(a). Moreover, even if appellants were unaware of the statute of limitations due to their distrust of FTB's letter, ignorance of the law is not an excuse for missing a filing deadline. (*Appeal of GEF Operating, Inc.*, 2020-OTA-057P.) Appellants are correct that on at least two occasions, once on June 13, 2024, and once on July 16, 2024, an FTB employee erroneously advised them that a refund check would be issued within two to three weeks. However, the four-year statute of limitations period had already expired on April 15, 2024, so the erroneous advice has no legal impact.

After the oral hearing, OTA reopened the record to address whether appellants' original, timely filed California tax return constituted a claim for refund of all withholding credits, including both the claimed wage withholding credits and the nonwage withholding credits. Appellants provided a copy of their federal tax return for 2019, which included a Schedule D reporting gross proceeds of $108,333 and a basis of $108,333 with zero gain or loss. An attached "detail sheet" lists real estate tax withheld of $3,608. Neither the Schedule D nor the detail sheet provides information on what the real estate transaction was, other than the sale of an "inherited house," or whether the real estate withholdings were federal or California state withholdings.

FTB cites several reasons that the original return, even as supported by the federal return contents, does not constitute a valid claim for refund. Under R&TC section 19322, a claim for refund must be: (1) in writing; (2) signed; and (3) state the specific grounds upon which it is founded. FTB agrees that appellants' original return was a valid claim for refund, but only for the specified wage withholdings of $9,445, not for the nonwage withholdings of $3,608 that were not identified anywhere on appellants' original California tax return.

OTA's record reflects that appellants did list gross proceeds of $108,333 on their federal Schedule D from "all transactions reported on Form(s) 8949." The Schedule D does not indicate whether proceeds from the sale of the "inherited house" were withheld and transmitted to FTB. The detail sheet showing the withholdings of $3,608 that appellants submitted on appeal did not identify whether their withholdings were federal or state withholdings, and in any event, that detail sheet was not submitted to California with appellants' original tax return. Thus, there was nothing in appellants' filed documents that matched that sale to California withholdings of $3,608. Consequently, appellants' claim for refund on their originally filed return did not state the specific grounds upon which the claim for refund of nonwage withholdings was based as required by R&TC section 19322. The original state tax return was, therefore, not a valid claim for refund of the nonwage withholdings. As such, appellants have not met their burden to establish that their claim for refund was timely.

HOLDING

Appellants' claim for refund for taxable year 2019 is barred by the statute of limitations.

DISPOSITION

OTA sustains FTB's action denying appellants' claim for refund.

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Teresa A. Stanley
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Teresa A. Stanley
Administrative Law Judge

We concur:

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Sara A Hosey
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Sara A. Hosey
Administrative Law Judge

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

Date Issued: 5/4/2026