OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:

D. SMITH

OTA Case No. 250118593

OPINION

Representing the Parties:

For Appellant: D. Smith

For Respondent: Ariana Macedo, Attorney

For Office of Tax Appeals: Grant S. Thompson, Attorney

G. TURNER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, appellant D. Smith (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of $7,539.95 for the 2019 tax year.[1]

Appellant 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 appellant timely filed a claim for refund for the 2019 tax year.

FACTUAL FINDINGS

1. FTB records indicated that appellant might have a filing requirement for the 2019 tax year notwithstanding no return being on file and, as such, on September 14, 2021, FTB issued a Demand for Tax Return to appellant.
2. Receiving no response, FTB issued a Notice of Proposed Assessment (NPA) for the 2019 tax year on November 12, 2021, estimating appellant's income and resultant tax

[1] Appellant's claim for refund did not state a refund amount. FTB's records indicated an overpayment of $7,539.95 and treated appellant's claim for refund as a claim for refund of this amount.

due which, including credits, penalties, and interest, amounted to a total liability of $11,321.84.

3. The NPA became final without protest. FTB began collection action.
4. Appellant worked out-of-state for several years and entrusted their California business affairs and tax obligations to a third-party. However, in response to FTB's collection actions, appellant discovered those responsibilities had not been satisfied. Appellant then worked to resolve their unfiled returns and unpaid tax obligations. Appellant made a payment to FTB on May 24, 2022, in the amount of $11,501.30 for the 2019 tax year.
5. On September 27, 2024,[2] appellant filed a California Resident Income Tax Return (Return) for the 2019 tax year, reporting total tax of $2,406, plus a self-assessed underpayment of estimated tax penalty of $44, for a total amount due of $2,450.
6. FTB accepted the Return as filed and treated it as a claim for refund. After adding a delinquent filing penalty of $601.50, a demand penalty of $601.50, accumulated interest of $211.35, a cost recovery fee of $97, and an offset for appellant's May 24, 2022, payment, FTB determined appellant had an overpayment of $7,539.95. However, FTB determined that appellant filed the Return outside the statute of limitations period for making a refund claim.
7. FTB therefore issued appellant a denial notice for the 2019 tax year.
8. 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 within the extended filing period pursuant to an extension of time to file; (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).) Taxpayers have the burden of proof to show entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

Appellant did not file the 2019 Return by: (1) July 15, 2020, the postponed due date for the Return due to COVID-19;[3] or (2) October 15, 2020, the extended due date for the Return. (See R&TC, § 18567(a)(1); Cal. Code Regs., tit. 18, § 18567(a).) The first four-year statute of

[2] FTB's records indicate it received the return on October 4, 2024. Appellant states they filed the return on September 27, 2024. This Opinion treats the Return as filed on September 27, 2024. However, the analysis and conclusion would not change if the Return were filed on October 4, 2024.

[3] In response to COVID-19, FTB postponed the due dates for individual returns and payments for the 2019 tax year to July 15, 2020. (*Appeal of Nguyen*, 2025-OTA-333P.)

limitations period set forth in R&TC section 19306(a) is therefore inapplicable because appellant did not file the 2019 Return within an extension of time to file. The second four-year statute of limitations period runs from the original due date for appellant's 2019 Return, and thus expired on April 15, 2024, which is four years from the original due date of the Return on April 15, 2020. (See R&TC, §§ 19306(a), 18566; *Appeal of Nguyen*, 2025-OTA-333P.) However, appellant filed his 2019 Return on September 27, 2024, which is beyond the second four-year statute of limitations period set forth in R&TC section 19306(a).

With regard to the one-year statute of limitations for the 2019 tax year, appellant made a payment of $11,501.30 on May 24, 2022. Thus, to be within the one-year statute of limitations, appellant must have filed his claim for refund for the 2019 tax year by May 24, 2023. Because appellant filed his 2019 Return on September 27, 2024, his 2019 claim for refund is barred by the one-year statute of limitations set forth in R&TC section 19306(a).

Appellant argues that they entrusted a friend to take care of their tax obligations. Appellant further argues that, after becoming aware of problems with their taxes and spending a great deal of time preparing tax returns, they were able to pay all tax due.

The language of the statute of limitations, however, is strictly construed and there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, *supra.*) Nor is there a general exception that suspends the statute of limitations for claims for refund due to the ill health of the taxpayer or any other unfortunate circumstances. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) Absent a statutory exception, a taxpayer's untimely filing of a claim for refund for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Benemi Partners, L.P.*, *supra.*) OTA is sympathetic to the circumstances described by appellant and notes their efforts to satisfy their tax obligations. However, without a legislatively-enacted exception to the statute of limitations, OTA does not have the legal authority to alter the outcome of this matter in a more satisfactory way for appellant. (See *Appeal of Estate of Gillespie*, *supra*.)

HOLDING

Appellant untimely filed a claim for refund for the 2019 tax year.

DISPOSITION

FTB's action denying appellant's claim for refund is sustained.

Signed by:
Greg Turner
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Greg Turner
Administrative Law Judge

We concur:

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Andrew Wong
Administrative Law Judge

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

Date Issued: 5/13/2026