2026-OTA-377
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Consolidated Appeals of: **G. CALHOUN AND** **T. CALHOUN**	OTA Case Nos. 250522100, 250522102

OPINION

Representing the Parties:

For Appellants: G. Calhoun
T. Calhoun

For Respondent: Jeffrey Gates, Attorney

For Office of Tax Appeals: Westley Marcelo, Attorney

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, G. Calhoun and T. Calhoun (appellants) appeal actions by respondent Franchise Tax Board (FTB) denying appellants' claims for refund of $3,565.34 and $5,634.09 for the 2016 and 2017 tax years, respectively.

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 are barred by the statute of limitations.

FACTUAL FINDINGS

2016 Tax Year

1. FTB issued T. Calhoun a Demand for Tax Return after being informed that T. Calhoun received sufficient California-source income to require a return filing. When T. Calhoun did not respond, FTB issued a Notice of Proposed Assessment (NPA) based on an estimate of income. FTB also issued G. Calhoun an NPA based on an estimate of

income from third-party sources.[1] Appellants did not respond to the NPAs and the assessment became final.

2. Appellants made bill payments from October 17, 2018, to June 17, 2020, and transferred credit from their 2019 tax year account to their 2016 tax year account on July 18, 2020.
3. Appellants untimely filed a joint 2016 California income tax return on January 31, 2025.
4. FTB processed appellants' return and recomputed an overpayment of $3,565.34. FTB treated appellants' return as a claim for refund.
5. FTB sent appellants a letter explaining that it could not refund or credit the overpaid amount because of the expiration of the statute of limitations.
6. This timely appeal followed.

<u>2017 Tax Year</u>

7. FTB issued T. Calhoun a Demand for Tax Return after being informed that T. Calhoun received sufficient California-source income to require a return filing.
8. FTB issued T. Calhoun an NPA based on an estimate of income. T. Calhoun did not respond to the NPA, and the assessment became final.
9. Appellants made bill payments from July 17, 2020, to June 15, 2022, and transferred credit from their 2019 tax year account to their 2017 tax year account on July 18, 2020.
10. Appellants untimely filed a joint 2017 California income tax return on January 31, 2025.
11. FTB processed appellants' return and computed an overpayment of $5,634.09. FTB treated appellants' return as a claim for refund.
12. FTB sent appellants a letter explaining that it could not refund or credit the overpaid amount because of the expiration of the statute of limitations.
13. This timely appeal followed.

[1] The NPA issued to G. Calhoun states that FTB had previously sent G. Calhoun a notice, which requested her to either file a 2016 California income tax return, send a copy of a previously filed California income tax return, or explain why she did not have a filing requirement. FTB did not provide this notice to OTA.

DISCUSSION

Appellants do not dispute that their refund claims for the 2016 and 2017 tax years were untimely.[2] Appellants assert that they are nonetheless entitled to refunds because they duly paid taxes assessed by FTB for the tax years at issue, only to later discover that the amounts paid exceeded their taxes due. However, it is well-settled that 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. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid*.) Furthermore, neither reasonable cause nor doctrines of equity may suspend the statute of limitations for refund claims. (*Ibid*.) Thus, appellants' claims for refund are barred by the statute of limitations.

HOLDING

Appellants' claims for refund are barred by the statute of limitations.

DISPOSITION

FTB's actions denying appellants' claims for refund are sustained.

Signed by:
Veronica I. Long
32D46B0C49C949F...
Veronica I. Long
Administrative Law Judge

We concur:

DocuSigned by:
8A4294817A67463...
Andrew Wong
Administrative Law Judge

DocuSigned by:
Sara A Hosey
6D3FE4A0CA514E7...
Sara A. Hosey
Administrative Law Judge

Date Issued: 4/17/2026

---

[2] California law generally requires taxpayers to file their refund claim by 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 a return (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. (R&TC, § 19306(a).)