OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **G. SIMENTAL**	OTA Case No. 250118584

OPINION

Representing the Parties:

For Appellant: G. Simental

For Respondent: Caitlin Russo, Senior Legal Analyst

For Office of Tax Appeals: Grant Thompson, Attorney

H. FAMULARO, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, G. Simental (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant's claims for refund of $2,615.95 and $4,746.80 for the 2018 and 2019 tax years, respectively.

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 the statute of limitations bars appellant's claims for refund for the 2018 and 2019 tax years.

FACTUAL FINDINGS

1. Appellant did not timely file tax returns for the 2018 and 2019 tax years.
2. FTB issued notices to appellant showing a balance of tax due for the 2018 and 2019 tax years.
3. On March 29, 2021, FTB received a $2,615.95 payment for the 2018 tax year.
4. On August 15, 2022, FTB received a $5,052.89 payment for the 2019 tax year.

5. On October 15, 2024, appellant and his spouse (the couple) untimely filed joint California Resident Income Tax Returns for the 2018 and 2019 tax years reporting zero total tax and zero refund amounts due for each tax year.
6. Despite the couple not claiming refunds on their 2018 and 2019 returns, FTB accepted those returns as filed and treated them as claims for refund.
7. FTB issued the couple claim denial notices denying the overpayment amounts of $2,615.95 and $4,746.80 for the 2018 and 2019 tax years, respectively, because the couple did not file their 2018 and 2019 returns before the refund statute of limitations expired.[1]
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 does not dispute that the 2018 and 2019 returns filed on October 15, 2024, were untimely claims for refund. Instead, appellant argues that financial difficulties prevented him from filing timely refund claims.

The language of the statute of limitations must be 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 an 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.)[2] 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.*,

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[1] FTB determined that appellant's and his spouse's overpayment amount for the 2019 tax year was $4,746.80 after subtracting a non-refundable collection cost fee and applicable interest from their payment of $5,052.89.

[2] There is a narrow exception to suspend the statute of limitations during any period where a taxpayer is "financially disabled." A taxpayer is financially disabled if he or she 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 is expected to last for a continuous period of not less than 12 months. (R&TC, § 19316(b)(1).) Appellant does not argue financial disability.

supra.) While OTA is sympathetic to the financial difficulties faced by appellant, without a legislatively enacted exception to the statute of limitations, OTA is unable to provide the relief appellant seeks. (See *Appeal of Estate of Gillespie*, *supra*.)

HOLDING

The statute of limitations bars appellant's claims for refund for the 2018 and 2019 tax years.

DISPOSITION

FTB's actions are sustained.

Signed by:
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Hans Famularo
Administrative Law Judge

We concur:

Signed by:
Kim Wilson
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Kim Wilson
Hearing Officer

DocuSigned by:
Steven Kim
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Steven Kim
Administrative Law Judge

Date Issued: 4/29/2026