2026-OTA-370
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **J. CURTIS AND** **R. CURTIS**	OTA Case No. 250522097

OPINION

Representing the Parties:

For Appellants: J. Curtis and R. Curtis

For Respondent: Arathi Ramalingam, Attorney

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Curtis and R. Curtis (appellants) appeal actions by respondent Franchise Tax Board (FTB) denying appellants' claims for refund of $2,026.45, $1,385.95, $3,447.14, $94, and $95 for the 2008, 2009, 2013, 2017, and 2019 taxable 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

Are appellants' claims for refund for the 2008, 2009, 2013, 2017, and 2019 taxable years barred by the statute of limitations?

FACTUAL FINDINGS

1. Appellants did not timely file tax returns for the 2008, 2009, 2013, 2017, and 2019 taxable years.
2. FTB requested or demanded appellant J. Curtis file tax returns for the 2008, 2009, and 2013 taxable years because FTB had information showing they earned sufficient income to prompt a filing requirement.
3. Because appellant J. Curtis did not respond to FTB's request or demands, FTB issued Notices of Proposed Assessment (NPAs) for the 2008, 2009, and 2013 taxable years

proposing to assess tax and penalties, plus interest, based on an estimate of appellant J. Curtis' income.

4. Appellant J. Curtis did not protest the NPAs, and the proposed liabilities for the 2008, 2009, and 2013 taxable years became due and payable.

5. FTB began collection action and received payments of $2,026.45 between April 26, 2022, and April 30, 2022, for taxable year 2008. FTB received payments of $1,593.95 between March 12, 2012, and December 11, 2023, and payments of $848.59 between March 1, 2024, and September 24, 2024, for taxable year 2009. FTB received payments of $3,490.78 between May 12, 2023, and July 1, 2023, for taxable year 2013.[1]

6. On February 3, 2025, appellants filed joint California income tax returns for the 2008, 2009, and 2013 taxable years. Appellants reported zero tax for each taxable year.

7. On February 10, 2025, appellants filed joint California income tax returns for the 2017 and 2019 taxable years reporting zero tax and no payments, resulting in claims for refund of earned income tax credits of $94 and $95, respectively.

8. FTB accepted and processed appellants' tax returns. FTB treated appellants' tax returns as their claims for refund. After processing appellants' 2009 tax return, FTB transferred $796.43 to appellants' taxable year 1995 and $54 to appellants' taxable year 2016.[2] FTB determined that appellants had overpayments of $2,026.45,[3] $1,385.95,[4] $3,447.14,[5] $94, and $95 for the 2008, 2009, 2013, 2017, and 2019 taxable years, respectively.

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[1] FTB received payments for the 2008, 2009, and 2013 taxable years from various sources including transferring refunds from subsequent taxable years, installment agreement payments, and FTB's Treasury Offset Program.

[2] The amount transferred to other taxable years includes the $848.59 appellants overpaid between March 1, 2024, and September 24, 2024 (within one year of appellants' claim for refund filed on February 3, 2025), plus allowed interest of $1.84 for transfers totaling $850.43.

[3] For the 2008 taxable year, FTB calculated appellants' overpayment as $2,026.45 because appellants reported zero tax liability and FTB received $2,026.45 of payments.

[4] For the 2009 taxable year, FTB calculated appellants' overpayment as $1,385.95 because appellants reported zero tax liability; FTB imposed a $154 collection cost recovery fee, $20 lien fee, and $34 installment agreement fee; $54 was transferred to the 2016 taxable year and $796.43 was transferred to the 1995 taxable year; FTB received $2,442.54 of payments; and FTB allowed $1.84 of interest.

[5] For the 2013 taxable year, FTB calculated appellants' overpayment as $3,447.14 because appellants reported zero tax liability, FTB imposed a $20 lien fee and $23.64 Treasury Offset Program Fee, and FTB received $3,490.78 of payments.

9. Aside from transferring $848.59 from appellants' 2009 taxable year account, FTB denied appellants' remaining claims for refund due to expiration of the statute of limitations.
10. Appellants timely filed this appeal.

DISCUSSION

No credit or refund may 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 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).) The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Here, appellants do not dispute that they did not timely file their claims for refund within four years from the due date for their original returns; therefore, the claims are untimely under the four-year statute of limitations period. Regarding the one-year statute of limitations appellants made payments for taxable year 2009 within one year of the filing date, February 3, 2025, between March 1, 2024, and September 24, 2024. FTB properly credited those payments totaling $848.59 and applied them to appellants' 1995 and 2016 taxable year balances. (See R&TC, § 19301(a).) The remaining payments for each taxable year were made more than a year prior to filing their claims for refund and are therefore barred by the one-year statute of limitations.

For taxable years 2017 and 2019, appellants reported zero tax and claimed refundable earned income tax credits of $94 and $95, respectively. (See R&TC, § 17052 [allowing an earned income tax credit].) The earned income tax credit is a refundable tax credit, meaning it allows for the excess of the credit over the taxpayer's tax liability to be refunded to the taxpayer. (See R&TC, § 17052(f).) The date of the overpayment created by a refundable credit is deemed to be the original due date for the return. (*Appeal of Sotelo*, 2025-OTA-035P.) Consequently, appellants' claims for refund of the earned income tax credit for taxable years 2017 and 2019 are deemed paid on April 15, 2018, and April 15, 2020, respectively. Appellants' claims for refund filed on November 15, 2025, are more than one year after the deemed overpayments, and are therefore barred under the one-year statute of limitations period described in R&TC section 19306(a).

Appellants argue that they are entitled to refunds because they do not owe any income tax. However, 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

HOLDING

Except as partially allowed by FTB for 2009, appellants' claims for refund for the 2008, 2009, 2013, 2017, and 2019 taxable years are not timely.

DISPOSITION

OTA sustains FTB's denial of appellants' claims for refund.

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Teresa A. Stanley
Administrative Law Judge

We concur:

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Keith T. Long
Administrative Law Judge

Signed by:
Suzanne B. Brown
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Suzanne B. Brown
Administrative Law Judge

Date Issued: 4/14/2026