2026-OTA-376
Nonprecedential

**OFFICE OF TAX APPEALS**

**STATE OF CALIFORNIA**

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| In the Matter of the Appeal of:<br>**R. STEWART AND**<br>**M. STEWART** | OTA Case No. 250722713 |

# OPINION

Representing the Parties:

For Appellants: David J. Cecy, CPA

For Respondent: Caitlin S. Russo, Senior Legal Analyst

For Office of Tax Appeals: Westley Marcelo, Attorney

S. HOSEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Stewart and M. Stewart (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of $12,099.85 for the 2020 tax year.

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' claim for refund is timely.

## FACTUAL FINDINGS

1. Appellants timely filed a 2020 California Resident Income Tax Return on May 11, 2021, reporting a tax due of $399 and shortly thereafter remitted full payment.
2. FTB later sent appellants separate notices indicating that they may have unclaimed nonwage withholding credits. The notices instructed appellants to file an amended return before the statute of limitations expired to claim a refund or credit.
3. On May 15, 2025, FTB received appellants' joint 2020 amended return, which requested a refund of $11,082. Appellants signed and dated the return May 15, 2025, and the

certified mail receipt for the amended return shows a corresponding postmark date of May 15, 2025.

4. FTB processed appellants' amended return as filed and updated appellants' 2020 tax year account to show an overpayment of $12,099.85.[1] FTB treated appellants' amended return as a claim for refund for the overpaid amount.
5. FTB later sent appellants a notice explaining that the total overpaid amount could not be refunded or credited due to the expiration of the statute of limitations.
6. This timely appeal followed.

## DISCUSSION

R&TC section 19306(a) provides that 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. The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (Cal. Code Regs., tit. 18, § 30219(a)-(b); *Appeal of Estate of Gillespie*, 2018-OTA-052P.) Neither reasonable cause nor doctrines of equity may suspend the statute of limitations under R&TC section 19306. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

Here, appellants' original tax return was timely filed on May 11, 2021, during the automatic six-month extension period. (R&TC, § 18567(a)(1); Cal. Code Regs., tit. 18, § 18567(a).) Therefore, the first four-year statute of limitations period is applicable. This four-year statutory period for appellants' refund claim expired on May 11, 2025.

The parties dispute the date that appellants filed the amended return. On appeal, appellants initially argued that their refund claim was timely filed on May 15, 2025, which is the postmarked date on their amended return's certified mail receipt and the submission date in FTB's records. Appellants assert that the statutory deadline for 2020 was extended to May 17, 2021, suggesting that a claim filed on May 15, 2025, would be timely. However, FTB's decision to postpone the filing deadline for 2020 tax returns due to COVID-19, does not change the original due date of April 15, 2021, upon which the *second* four-year statutory period in

[1] FTB explains that the overpayment amount of $12,099.85 was the result of adding excess bill pay credits to appellants' original refund claim amount of $11,082.

R&TC section 19306(a) is calculated. (Treas. Reg. § 301.7508A-1(b)(4); see *Appeal of Nguyen*, 2025-OTA-333P.)[2]

In appellants' reply brief, appellants also assert that their amended return was instead filed on May 10, 2025. Taxpayers must prove that a paper return was timely mailed by providing evidence, such as a registered or certified mail receipt, showing that the return was timely mailed, and thus timely filed, with FTB. (Gov. Code, § 11003; R&TC, § 21027; Cal. Code Regs., tit. 18, § 30219(a); *Appeal of Fisher*, 2022-OTA-337P.) Appellants have not submitted additional documentation to show that their amended return was mailed on May 10, 2025. Based on the evidence in the record, OTA finds that appellants untimely filed the amended return on May 15, 2025. As such, the amended return was filed after the May 11, 2025 deadline, and therefore is untimely under the four-year statute of limitations.[3]

## HOLDING

Appellants' claim for refund is untimely.

## DISPOSITION

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

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

We concur:

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

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

Date Issued: 4/17/2026

[2] FTB's authority to grant state of emergency postponements for tax-related acts is found in R&TC section 18572(b), which adopts Internal Revenue Code section 7508A.

[3] Appellants do not contend, and the record does not show, that their claim for refund is otherwise timely under the alternative one-year statutory period provided in R&TC section 19306(a).