2026-OTA-391
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **C. LOPEZ**	OTA Case No. 251023647

OPINION

Representing the Parties:

For Appellant: Peter Chu, Representative

For Respondent: Rachel Glass, Attorney

For Office of Tax Appeals: Nguyen Dang, Attorney

N. RALSTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Lopez (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of $8,243.93 for the 2018 tax year.

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 is entitled to a refund or credit of her overpayment for the 2018 tax year.

FACTUAL FINDINGS

1. Appellant did not file a timely 2018 California income tax return.
2. After demanding but not receiving a 2018 return from appellant, respondent issued a Notice of Proposed Assessment (NPA) to appellant for tax, penalties, and interest based on an estimate of appellant's income using third-party information returns.
3. Appellant did not protest the NPA and it became due and payable.
4. On May 10, 2022, respondent levied appellant's bank account for $8,406.57, which satisfied her outstanding 2018 liability.

5. Over one year later, on September 2, 2025, appellant late filed her 2018 California income tax return reporting a total tax due of $64 and $0 in payments.
6. Respondent accepted appellant's reported total tax due amount and computed an overpayment of $8,243.93 after accounting for the bank levy, penalties, and interest.
7. Because the processing of appellant's 2018 return resulted in an overpayment, respondent treated the return as a claim for refund. However, respondent did not refund or credit the overpayment to appellant because respondent determined that her refund claim was untimely.
8. Respondent issued a claim denial notice to appellant from which appellant timely appeals.

DISCUSSION

No refund or credit shall be allowed or made unless a refund claim is filed by the taxpayer within any of the following periods: (1) four years from the date the return is filed, if filed on or before the extended due date; (2) four years from the due date of the return without regard to any extension of time for filing the return; or (3) one year from the date of overpayment. (R&TC, § 19306(a).) Appellant does not dispute that her refund claim was not filed within any of the aforementioned periods and that it is therefore untimely. Instead, appellant asks that her untimely refund claim be granted because respondent should not be entitled to retain amounts not legally owed to it.[1] Appellant asserts that respondent's NPA overstated appellant's tax liability because it did not take into account her business deductions and expenses.

OTA does not have the authority to grant an untimely refund claim. The statute of limitations must be strictly construed, meaning that a taxpayer's untimely filing of a refund claim *for any reason* bars a refund. (*Appeal of Benemi Partners*, *L.P.*, 2020-OTA-144P.) This is true even when, as occurred here, it is later shown that the tax was not owed in the first place. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional unfairness is necessary to allow for a more workable tax system and is redeemed by the clarity imparted. (*Ibid*.)

[1] Appellant also contends that the penalties and interest should be "removed" because respondent's assessment was excessive. Although respondent significantly reduced the amount of penalties and interest, some amount still remains because these charges are computed based on the tax due, and here, appellant reported a $64 tax due. Regardless, for the reasons explained above, any issue concerning the amount of appellant's overpayment is moot.

HOLDING

Appellant is not entitled to a refund or credit of her overpayment for the 2018 tax year.

DISPOSITION

Respondent's action is sustained.

Signed by:
Natasha Ralston
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Natasha Ralston
Administrative Law Judge

We concur:

DocuSigned by:
K Long
DC88A60D8C3E442...

Keith T. Long
Administrative Law Judge

DocuSigned by:
Steven Kim
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Steven Kim
Administrative Law Judge

Date Issued: 6/8/2026