OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **J. AVILA AND** **I. AVILA**	OTA Case No. 250722650

OPINION

Representing the Parties:

For Appellants: J. Avila and I. Avila

For Respondent: Arathi Ramalingam, Attorney

For Office of Tax Appeals: Neha Garner, Attorney

N. RALSTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Avila and I. Avila (appellants) appeal an action by the Franchise Tax Board (respondent) denying appellants' claim for refund of $4,560.85 for the 2019 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 for the 2019 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. Respondent received information indicating that appellants may have received sufficient income to require filing a tax return for the 2019 tax year. On November 2, 2021, respondent issued a Request for Tax Return to J. Avila. When J. Avila failed to respond, respondent issued a Notice of Proposed Assessment (NPA) based on an estimate of income and proposed tax, a late filing penalty, and interest.
2. When J. Avila did not respond to the NPA, the NPA became a final liability, and respondent pursued collection action. As a result of the collection action, respondent received payments from October 15, 2022, to December 1, 2022, totaling $3,915.58.

3. On March 13, 2025, appellants filed their 2019 California tax return. Respondent processed appellants' return as filed and after accounting for total tax, withholdings, and payments remitted, appellants' tax year account reflected an overpayment of $4,560.85. Respondent treated the return as a claim for refund of overpayment. Respondent issued a State of Limitations Notice denying appellants' claim for refund.
4. This timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306. 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. For purposes of R&TC section 19306, withholding credits are treated as paid on the last day prescribed for filing the return. (R&TC, § 19002(c)(1).) The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (Cal. Code Regs, tit. 18, § 30219(a); *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Absent an exception, a taxpayer's untimely filing of a claim for any reason bars a refund. (*Ibid.*) There is generally no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) 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. (*Ibid.*) Moreover, fixed deadlines may appear harsh because they can be missed; however, the resulting occasional harshness is redeemed by the clarity imparted. (*Appeal of Estate of Gillespie, supra.*)

Appellants did not file a 2019 tax return within an extended due date; thus the first four-year statute of limitations is inapplicable. The second four-year statute of limitations period runs from the original due date for appellants' 2019 return, and thus expired on April 15, 2024, which is four years from the original due date of the return on April 15, 2020. (R&TC, §§ 19306(a), 18566.) The one year-statute of limitations period expired on December 1, 2023, which is one year from when appellants remitted their last payment for the 2019 tax year. Appellants, however, filed the 2019 return on March 13, 2025, which is beyond the four-year and one-year statute of limitations period prescribed in R&TC section 19306(a). Therefore, appellants' claim is barred by the statute of limitations.

Appellants argue that COVID-19 pandemic caused a variety of uncertainties. Appellants also state that they believed that when a refund is owed, they could file a refund at any time. Therefore, appellants argue that the statute of limitations should not apply to the untimely filing of their return. 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., supra*.) Furthermore, even if the taxpayer is unaware of a filing requirement, ignorance of the law is not an excuse for failing to file a timely return. (*Appeal of GEF Operating, Inc.,* 2020-OTA-057P.) While OTA is sympathetic to appellants' situation, OTA lacks the authority to abrogate the statute of limitations to provide the relief appellants seek. (*Appeal of Estate of Gillespie, supra*.) Although fixed deadlines may appear harsh because they can be missed, the resulting occasional harshness is redeemed by the clarity imparted. (*Ibid*.)

HOLDING

Appellants' claim for refund for the 2019 tax year is barred by the statute of limitations.

DISPOSITION

Respondent's action is sustained.

Signed by:
Natasha Ralston
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Natasha Ralston
Administrative Law Judge

We concur:

Signed by:
Josh Lambert
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Josh Lambert
Administrative Law Judge

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

Date Issued: 6/8/2026