OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **J. CHOW AND** **O. HINOJOZA-CHOW**	OTA Case No. 250218728

OPINION

Representing the Parties:

For Appellants: Ryan T. Cook, CPA

For Respondent: Rosemary Villasenor, Senior Legal Analyst

For Office of Tax Appeals: Neha Garner, Attorney

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Chow and O. Hinojoza-Chow (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of $17,949 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. On February 21, 2024, FTB notified appellants that FTB had received non-wage withholding credits on their 2019 tax year account but there was no tax return on file. FTB also informed them of the statute of limitations for filing refund claims and that withholding credits are deemed paid on the due date of the tax return.
2. On October 15, 2024, appellants filed their 2019 California Nonresident or Part-Year Resident Income Tax Return (Form 540NR) using the married filing jointly filing status. Appellants reported a total tax of zero, claimed withholding credits of $17,949, and

requested a refund of $17,949. FTB processed appellants' return and accepted it as filed. FTB treated appellants' tax return as a claim for refund.

3. On November 6, 2024, FTB issued a notice denying appellants' claim for refund stating that appellants' tax return was filed beyond the statute of limitations period.
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*.) The statute of limitations bars an untimely claim for refund even when it is shown that the tax was not owed in the first instance. (*Ibid*.)

Appellants filed an untimely 2019 tax return on October 15, 2024. The applicable four-year statute of limitations period for appellants' 2019 refund claim expired on April 15, 2024, which is four years from the original due date of the return, April 15, 2020.[1] Appellants' refund claim was filed after the applicable four-year statutory period expired. Under the one-year statute of limitations, all payments made within one year of October 15, 2024, would be timely under the one-year statute of limitations. However, the only payment received on appellants' 2019 tax year account occurred prior to this date with the withholding credit received on April 15, 2020. Therefore, appellants' claim is barred by the statute of limitations.

[1] FTB postponed the deadline for filing tax returns such that returns filed by July 15, 2020, were deemed timely due to the COVID-19 pandemic; however, the postponement has no impact here since the four-year statute of limitations for 2019 claims for refund still expired on April 15, 2024. (See *Appeal of Nguyen*, 2025-OTA-333P.)

Appellants contend that the statute of limitations expired on October 15, 2024, based on the filing of their federal return under an extension and provided evidence of the filing of their federal tax return on October 15, 2020. However, the IRS and FTB are two different agencies such that filing a request for a federal extension does not impact the due date of appellants' California income tax return. In contrast to the IRS which requires filing an extension request, California law allows for an automatic six-month extension to file a California tax return, but the automatic extension only applies if you file during the extension period. (R&TC, § 18567(a)(1); Cal. Code Regs., tit. 18, § 18567(a).) If the tax return is not filed within six months of the original due date, i.e., within the automatic extension period, then the extension is not allowed. (*Ibid*.) Appellants have not provided any evidence that they filed a California tax return before October 15, 2024. Therefore, the return filed is untimely and FTB is barred from refunding or crediting the overpayment.

Appellants contend that their failure to file a timely claim was due to FTB's tardy and confusing communications related to their real estate withholding credits. Appellants state that FTB's letter about unclaimed non-wage withholding credits did not provide them with sufficient time to file a timely claim and that the information on the notice led them to believe that they had four years from the timely filing of their federal tax return to file their refund claim.

However, each taxpayer has a personal, non-delegable obligation to file a tax return by the due date. (*Appeal of Fisher*, 2022-OTA-337P.) 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.) Additionally, FTB has no duty to discover overpayments made by a taxpayer (*Appeal of Cervantes* (74-SBE-029) 1974 WL 2844) or inform a taxpayer of the time within which a claim for refund must be filed to avoid the expiration of the statute of limitations. (*Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856.) 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*.) 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

FTB's action is sustained.

Signed by:
Veronica I. Long
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Veronica I. Long
Administrative Law Judge

We concur:

Signed by:
Kim Wilson
4E8E740EDB984CD...
Kim Wilson
Hearing Officer

Signed by:
L. Katrine Shelton
0A4B16EC081643E...
L. Katrine Shelton
Administrative Law Judge

Date Issued: 5/22/2026