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OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **K. JONES**	)	OTA Case No. 230713845

OPINION ON SEVERED ISSUE

Representing the Parties:

For Appellant: K. Jones

For Respondent: Maria Brosterhous, Attorney Supervisor

For Office of Tax Appeals: Amber Poon, Attorney

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, K. Jones (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of $748.91 for the 2018 taxable 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

Does OTA have jurisdiction over appellant's claim for refund?

FACTUAL FINDINGS

1. Appellant did not file a timely 2018 California tax return. FTB issued a 2018 Notice of Proposed Assessment (NPA) to appellant on March 24, 2021. The NPA estimated appellant's income and proposed to assess tax of $1,913, a late-filing penalty, and interest. Appellant did not respond to the NPA. After the NPA was final, FTB undertook collection action and applied a collection cost recovery fee of $316 on October 31, 2021.
2. On November 15, 2021, FTB applied an unclaimed property credit[1] of $1,064.91 to appellant's 2018 taxable year account.

[1] Held by the California Economic Development Department in appellant's name.

3. Appellant filed her 2018 and 2019 California tax returns on May 11, 2023. Appellant reported zero tax for both taxable years. FTB treated the 2018 California tax return as a refund claim of the unclaimed property credit of $1,064.91.
4. On May 31, 2023, FTB issued a letter to appellant denying her claim for refund of the unclaimed property credit[2] for the 2018 taxable year on grounds that the claim was filed outside the statute of limitations period for filing a refund claim.
5. On June 9, 2023, after FTB processed appellant's 2018 California tax return, FTB transferred the unclaimed property credit of $1,064.91 to appellant's 2019 taxable year.[3]
6. On July 18, 2023, appellant timely filed this appeal from FTB's denial of her 2018 claim for refund of the unclaimed property credit.
7. On July 24, 2023, after processing appellant's 2019 California tax return, FTB issued appellant a refund of $1,072.08, comprised of the unclaimed property credit of $1,064.91 transferred from the 2018 taxable year plus accrued interest of $7.17.[4]
8. On May 24, 2024, on FTB's motion, OTA severed the jurisdictional issue so it could be determined prior to addressing appellant's substantive claim for refund.[5]

DISCUSSION

Concerning franchise and income tax matters, OTA's jurisdiction is generally limited to hearing and deciding appeals that are timely submitted to OTA under certain circumstances. (Cal. Code Regs., tit. 18, § 30103(a).) As relevant to this appeal, OTA has jurisdiction over appeals from FTB's denial of a perfected claim for refund. (Cal. Code Regs., tit. 18, § 30103(a)(3).)

Here, FTB argues that OTA has no jurisdiction over this matter because no overpayment remains on appellant's 2018 taxable year account to refund. FTB explains that appellant's 2018 refund claim of $748.91 was included in the 2019 refund to appellant through a sequence of

[2] FTB reduced the unclaimed property credit of $1,064.91 by the collection cost recovery fee of $316 and denied appellant's refund of the $748.91 balance. However, FTB ultimately transferred the full $1,064.91 credit to appellant's 2019 taxable year account without reduction for the collection cost fee of $316.

[3] As of June 9, 2023, FTB had not yet processed appellant's 2019 tax return.

[4] Unclaimed property credit of $1,064.91 + interest of $7.17 = refund of $1,072.08.

[5] OTA may sever an issue if it determines there is good cause and no adverse effect on a substantial right of any party. (Cal. Code Regs., tit. 18, § 30212.1(b).) The question of jurisdiction concerns whether OTA has the authority under the circumstances of the appeal to hear and decide the matter. (See Cal. Code Regs., tit. 18, § 30103(a).)

events. FTB first applied an unclaimed property credit of $1,064.91 to appellant's 2018 taxable year account. When FTB denied appellant's 2018 claim for refund of the unclaimed property credit, appellant had an overpayment balance on her 2018 taxable year account consisting of the unclaimed property credit.[6] Subsequently, FTB transferred the entire unclaimed property credit of $1,064.91 (unreduced by the collection cost recovery fee of $316) to appellant's 2019 taxable year account. After processing appellant's 2019 California tax return reporting zero tax, FTB refunded the entire unclaimed property credit of $1,064.91 to appellant, along with interest of $7.17, resulting in a refund of $1,072.08 which was sent to appellant on July 24, 2023. FTB argues that because no amount remains on the 2018 taxable year account subject to a refund, OTA has no jurisdiction over the 2018 refund claim.

As relevant to this appeal, OTA has jurisdiction over timely filed appeals from FTB's notice denying a taxpayer's perfected refund claim. (R&TC, § 19324(a); Cal. Code Regs., tit. 18, § 30103(a)(3).) For a claim for refund to be "perfected," all amounts due for the taxable year, including tax, penalties, and interest must be paid. (See R&TC, § 19322.1.) The record reflects that FTB denied appellant's claim for refund on May 31, 2023. At the time FTB denied appellant's claim, there was a credit recorded on appellant's 2018 taxable year account. Thus, appellant's claim for refund was perfected. FTB's denial of a refund of the credit provides appellant with the right to appeal to OTA. (See R&TC, § 19324(a); Cal. Code Regs., tit. 18, § 30103(a)(3).) Because appellant timely appealed FTB's notice denying her claim for refund, OTA has jurisdiction to consider this appeal. Moreover, FTB's subsequent transfer of the $1,064.91 unclaimed property credit to appellant's 2019 taxable year account does not retroactively negate the fact that appellant timely appealed FTB's denial of a perfected refund claim. (See *Appeal of Leebow*, 2025-OTA-426P.)

Although OTA has jurisdiction over an appeal, OTA will dismiss an appeal when, as relevant here, OTA determines that all issues on appeal have become moot.[7] (Cal. Code Regs., tit. 18, § 30223(f).) An individual's claim is moot when no further relief may be granted beyond what they have already received. (*Schoshinski v. City of Los Angeles* (2017) 9 Cal.App.5th 780, 784.) An appeal is moot if events have subsequently occurred that renders

[6] FTB denied appellant's claim for refund of the unclaimed property credit of $1,064.91 reduced by the $316 collection cost recovery fee. FTB did not later reduce the unclaimed property amount it transferred to the 2019 taxable year.

[7] A legal matter is "moot" if it does not need to be dealt with because something has happened that solves the issue. (https://dictionary.cambridge.org/us/dictionary/english/moot [moot adjective, in law].)

it impossible to grant appellant any effective relief. (*La Mirada Avenue Neighborhood Assn. of Hollywood v. City of Los Angeles* (2016) 2 Cal.App.5th 586, 590.)

Here, despite FTB's initial denial of appellant's 2018 claim for refund, FTB later transferred the entire amount of the 2018 unclaimed property credit of $1,064.91 to appellant's 2019 taxable year account. Therefore, no refundable credit exists for taxable year 2018, and no refund is available to appellant for the taxable year at issue. Appellant received the entire amount of the 2018 unclaimed property credit when FTB refunded the $1,064.91 plus interest to appellant after processing appellant's 2019 California tax return.

HOLDING

OTA has jurisdiction over appellant's claim for refund. Appellant has already received the refund that she requested on appeal, which is the only substantive issue on appeal, rendering the appeal moot. The appeal is therefore dismissed.

DISPOSITION

OTA dismisses the appeal for mootness.[8]

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Teresa A. Stanley
Administrative Law Judge

We concur:

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Asaf Kletter
Administrative Law Judge

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Shela Pacheco
Senior Legal Typist, on behalf of
John O. Johnson
Administrative Law Judge

Date Issued: 4/6/2026

[8] Since this appeal is being dismissed as moot, this determination resolves the entire appeal, and therefore there will be no subsequent opinion addressing the substantive claim for refund. (See Cal. Code Regs., tit. 18, section 30212.1(b).)