2026-OTA-385
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:

S. FERRERA AND
M. MIKI

OTA Case No. 250218872

OPINION

Representing the Parties:

For Appellants: S. Ferrera
M. Miki

For Respondent: Ganeet Atwaal, Legal Analyst

For Office of Tax Appeals: Neha Garner, Attorney

S. KIM, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, S. Ferrera and M. Miki (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of $2,594.76 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. Appellants did not timely file a 2019 California income tax return.
2. FTB issued each individual appellant a Request for Tax Return (Request) after receiving information from third-party sources indicating that each appellant received income in 2019.
3. Appellants did not respond to their respective Requests.
4. FTB issued each individual appellant a Notice of Proposed Assessment (NPA). The NPA for appellant Ferrera proposed net tax of $1,764 and a late filing penalty of $441,

plus accrued interest. The NPA for appellant Miki proposed net tax of $1,759 and a late filing penalty of $439.75, plus accrued interest.

5. Appellants did not respond to their respective NPAs and the assessments became due and payable.
6. FTB initiated collection action and issued each individual appellant several notices regarding their outstanding liabilities for the 2019 tax year. FTB received payments totaling $6,226.54 from September 30, 2022, through December 5, 2023.
7. On January 30, 2025, appellants jointly filed their 2019 California Resident Income Tax Return reporting total tax of $8,431, withholding credits of $5,980, and tax due of $2,451. FTB processed appellants' return as filed, computed an overpayment of $2,594.76,[1] and treated the return as a claim for refund of the overpayment.
8. FTB issued appellants a notice denying the claim for refund on the basis that it was barred by the statute of limitations.
9. Appellants timely filed this appeal.

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.)

Appellants do not dispute that their January 30, 2025 claim for refund was untimely filed, and thus barred by the statute of limitations. Instead, appellants request "an exemption based on extenuating circumstances." Specifically, appellants assert several personal hardships between 2017 and 2021, including the passing of immediate family members, international travel for caregiving, and disruptions due to the COVID-19 pandemic. Appellants request that their 2019 overpayment be credited to their 2020 tax liability.

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[1] The overpayment amount is the withholding credits of $5,980 plus payments of $6,226.54, minus the reported tax of $8,431, the late filing penalty of $612.75, a collection cost fee of $316 and interest of $252.03.

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The statute of limitations for filing a claim for refund must be strictly construed; 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*.)[2] This is true even when it is later shown that the tax was not owed in the first place . (*Ibid*.) 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, 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.

DocuSigned by:
Steven Kim
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Steven Kim
Administrative Law Judge

We concur:

Signed by:
Suzanne B. Brown
47F45ABE89E34D0...
Suzanne B. Brown
Administrative Law Judge

Signed by:
Josh Lambert
CB1F7DA37831416...
Josh Lambert
Administrative Law Judge

Date Issued: 5/27/2026

[2] Though not applicable here, the time for filing a claim a claim for refund may be extended in certain circumstances where a taxpayer is financially disabled due to a medically determinable physical or mental impairment. (R&TC, § 19136; *Appeal of Estate of Gillespie*, *supra*.)