2026-OTA-406
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **V. ALMOCERA**	OTA Case No. 251023481

OPINION

Representing the Parties:

For Appellant: Jo Acierto Spehar, Representative

For Respondent: Rosemary Villasenor, Associate Governmental Program Analyst

For Office of Tax Appeals: Michelle Huh, Attorney

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, V. Almocera (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of $4,466 for the 2020 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's claim for refund is barred by the statute of limitations.

FACTUAL FINDINGS

1. FTB issued appellant a Request for Tax Return (Request) for the 2020 tax year after FTB received information from a third party that appellant received sufficient income to prompt a California income tax filing requirement.
2. When appellant did not respond, FTB issued a Notice of Proposed Assessment (NPA) proposing to assess tax based on an estimate of income for the 2020 tax year.

3. Appellant protested the NPA. However, FTB determined that appellant did not establish error in the proposed assessment and affirmed the NPA.[1] The proposed assessment became due and collectible.
4. FTB commenced collection actions and received payments from appellant from April 15, 2024, through September 2, 2025.
5. On August 15, 2025, appellant untimely filed a 2020 California Resident Income Tax Return.
6. FTB processed the return, determined that appellant had an overpayment of $8,379, and treated the return as a claim for refund. FTB refunded appellant $3,913 for payments made after August 15, 2024, but denied the remaining overpayment amount of $4,466 because it determined that appellant's 2020 return was filed outside the statute of limitations period for making a refund claim.[2]
7. This timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306(a), which provides that no credit or refund shall 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 the return (determined without regard to any extension of time to file); or (3) one year from the date of the overpayment. 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.)

Appellant's 2020 return was not filed within an extension of time to file; therefore, the first four-year statute of limitations period is inapplicable. The second four-year statute of limitations period expired four years from the due date of the original return on April 15, 2025. (R&TC, § 18566.) Only payments made within one year of appellant's claim for refund, which was filed on August 15, 2025, may be refunded under the one-year statute of limitations. Here, appellant received a refund, with interest, for payments made on or after August 15, 2024. Payments made prior to August 15, 2024, are barred by the one-year statute of limitations.

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[1] FTB did not provide a copy of the Notice of Action issued to appellant for the 2020 tax year.

[2] Appellant made an additional payment of $326 after filing her claim for refund. The additional payment was made after FTB issued its Statute of Limitations claim denial letter and, thus, is not at issue in this appeal. However, FTB's opening brief states that the $326 payment will be refunded to appellant.

Appellant asserts that she did not know about the statute of limitations period and that the COVID-19 pandemic lasted longer than expected. Appellant requests the remaining overpayment amount to be refunded.

However, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners., L.P.*, 2020-OTA-144P.) The language of the statute of limitations is explicit and must be strictly construed. (*Ibid*.) Appellant'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*.) This is true even when 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 harshness is redeemed by the clarity imparted. (*Ibid*.) While OTA is sympathetic to appellant's situation, OTA does not have statutory authority to set aside the statute of limitations to provide the relief appellant seeks. (*Appeal of Estate of Gillespie, supra*.) Thus, appellant's claim for refund is barred by the statute of limitations.

HOLDING

Appellant's claim for refund is barred by the statute of limitations.

DISPOSITION

FTB's action in denying appellant's claim for refund is sustained.

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

We concur:

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Steven Kim
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Steven Kim
Administrative Law Judge

Signed by:
Seth Elsom
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Seth Elsom
Hearing Officer

Date Issued: 5/22/2026