

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 250822935
C. GONZALVO AND	)	
R. GONZALVO	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellants:	C. Gonzalvo
	R. Gonzalvo

For Respondent:	Ganeet Atwaal, Legal Analyst
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For Office of Tax Appeals:	Grant Thompson, Attorney
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H. FAMULARO, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Gonzalvo and R. Gonzalvo (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$3,961.18 for the 2020 tax year.¹

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 is barred by the statute of limitations.

¹ In appellants' appeal, appellants request a refund of \$3,961.18 for the 2020 tax year. As discussed below, FTB treated appellants' 2020 tax return as a claim for refund of \$3,961.18, issued appellants a refund of \$35.30, and by notice dated July 23, 2025, denied a refund of the remainder of \$3,925.88 because the statute of limitations had expired. It is not clear how FTB determined the refund it allowed of \$35.30.

FACTUAL FINDINGS

1. Appellants did not file a timely tax return for the 2020 tax year.
2. After requesting but not receiving a return from appellant C. Gonzalvo, FTB issued a Notice of Proposed Assessment (NPA) to her for the 2020 tax year based on an estimate of her wage income from a third-party information return.²
3. Appellant C. Gonzalvo did not timely protest the NPA and it became due and payable.
4. FTB commenced collection actions and received payments of \$1,702.73 and \$1,053.15 on May 7, 2024, and June 4, 2024, respectively.
5. On June 13, 2025, appellants untimely filed their joint California Resident Income Tax Return for the 2020 tax year reporting total tax of \$999, California income tax withheld of \$2,501, and a refund due of \$1,502.
6. FTB treated the return as a claim for refund of \$3,961.18, issued appellants a refund of \$35.30, and by notice dated July 23, 2025, denied a refund of the remainder of \$3,925.88 because the statute of limitations had expired.³
7. This timely appeal followed.

DISCUSSION

The law generally requires taxpayers to file their refund claims by the later of:

(1) four years from the date the return is filed, if filed within the extended filing period pursuant to an extension of time to file; (2) four years from the due date of the return without regard to any extensions; or (3) one year from the date of overpayment. (R&TC, § 19306(a).) Appellants have the burden of proof to show entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

Appellants untimely filed their 2020 tax return claiming a refund on June 13, 2025. The first four-year statute of limitations is inapplicable because appellants did not file their return by October 15, 2021, the extended due date for their return. (R&TC, § 18567(a)(1); Cal. Code Regs., tit. 18, § 18567(a).) Under the second four-year statute of limitations, appellants filed their tax return more than four years after the original due date of the tax return on

² FTB sent a Request for Tax Return, NPA, State Income Tax Balance Due Notice, Income Tax Due Notice, and Final Notice before Levy and Lien to appellant C. Gonzalvo under a different surname. The parties do not address this matter and therefore this Opinion does not discuss it further.

³ The amount of \$3,925.88 is comprised of withholding credits of \$2,501, plus collection payments totaling \$2,755.88, less total tax of \$999 and a collection cost recovery fee of \$332.

April 15, 2021. (R&TC, §§ 19306(a), 18566.) Accordingly, appellants filed their claim for refund after the expiration of the second four-year statute of limitations.

Under the one-year statute of limitations, appellants filed their joint tax return claiming a refund of their withholding credits of \$2,501 more than one year after April 15, 2021, the date that they are deemed to have made the payment. (R&TC, § 19002(c)(1) [withholding credits are deemed paid on the original due date of the return].) In addition, under the one-year statute of limitations, appellants filed their joint tax return that FTB treated as a claim for refund more than one year after their involuntary payments of \$1,702.73 and \$1,053.15 were collected by FTB on May 7, 2024, and June 4, 2024, respectively. Thus, appellants did not file a timely claim for refund.

Appellants do not dispute that their return was filed after the expiration of the statute of limitations. However, they allege that the loss of a household member to a COVID-19-related illness led to mental health issues that prevented them from timely filing their return.⁴

The language of the statute of limitations must be strictly construed and there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, *supra*.) Absent a statutory exception, a taxpayer's untimely filing of a claim for refund bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*)

There is a narrow exception to suspend the statute of limitations during any period where a taxpayer is "financially disabled" and certain requirements are met. (R&TC, § 19316; *Appeal of Estate of Gillespie*, 2018-OTA-052P.) A taxpayer is financially disabled if he or she is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months. (*Ibid.*) When an appellant alleges financial disability to suspend the limitations period to file a timely claim for refund, a physician's affidavit must be provided that identifies the disability period when appellant was unable to manage his or her financial affairs. (*Appeal of Estate of Gillespie*, *supra*.) To suspend the statute of limitations, the period of financial disability must occur during the limitations period. (*Ibid.*)

Appellants have not provided a physician's affidavit that identifies whether, or for how long, appellants were unable to manage their financial affairs prior to the expiration of the

⁴ Appellants state in their appeal that they provide documentation "related to [their] situation," but only provide FTB's notice dated July 23, 2025, which denied their refund claim because the statute of limitations had expired.

statute of limitations for filing a claim for refund. Without evidence, such as a doctor's affidavit, showing when appellants were unable to handle their financial affairs, OTA cannot define the period when the statute of limitations for filing a claim for refund must be suspended. (R&TC, § 19316; *Appeal of Estate of Gillespie, supra.*) Thus, while OTA is sympathetic to the severe hardships that appellants describe, OTA is unable to provide the relief appellants seek.

HOLDING

Appellants' claim for refund of \$3,925.88 is barred by the statute of limitations.

DISPOSITION

FTB's action denying appellants' claim for refund of \$3,925.88 is sustained.

Signed by:

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Hans Famularo
Administrative Law Judge

We concur:

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Asaf Kletter
Administrative Law Judge

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Keith T. Long
Administrative Law Judge

Date Issued: 6/17/2026