

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 230513272
H. PEDROZA AND	)	
J. PEDROZA	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellants:	H. Pedroza J. Pedroza
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For Respondent:	Paige Chang, Attorney
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A. WONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, H. Pedroza and J. Pedroza (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$8,312.92 for the 2016 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 the statute of limitations bars appellants' claim for refund for the 2016 tax year.

FACTUAL FINDINGS

1. Appellants did not timely file a California income tax return for the 2016 tax year.
2. Instead, based on information from third-party sources, FTB issued to appellants three Notices of Proposed Assessment (NPAs) for the 2016 tax year:
 - a. On May 14, 2018, FTB issued an NPA to J. Pedroza at a La Habra, California address, proposing tax of \$23,739. FTB had estimated J. Pedroza's income

based on gross sales he reported to the Board of Equalization (BOE) for the 2016 tax year.¹

- b. On July 9, 2018, FTB issued an NPA to H. Pedroza at a Whittier, California address, proposing tax of \$842. FTB had estimated H. Pedroza's income based on 2016 wage information acquired from the California Controller's Office.
 - c. On October 14, 2019, FTB issued a second NPA to J. Pedroza, this time at the Whittier, California address, proposing tax of \$2,529. FTB again estimated J. Pedroza's income for the 2016 tax year, this time based on an IRS mortgage interest statement.²
3. Nothing in the evidentiary record indicates that appellants protested any of these three NPAs.
 4. For the 2016 tax year, appellants were credited with payments/transfers totaling \$10,062.04, consisting of the following:
 - a. Withholding credits of \$198, deemed paid on April 15, 2017;
 - b. A payment of \$500 made by appellants on October 15, 2018;
 - c. A payment of \$492.85 made by appellants on June 17, 2019;
 - d. A tax year transfer of \$7,785.41 from the 2015 tax year, effective June 24, 2020; and
 - e. A payment of \$1,085.78 made by appellants on December 11, 2020.
 5. On March 14, 2023, appellants filed their 2016 California income tax return, reporting tax of \$1,260, exemption credits of \$222, and a total tax liability of \$1,038.
 6. FTB accepted appellants' 2016 return as filed and determined that they had made an overpayment of \$8,312.92 based on the following: total payments/credits of \$10,062.04 less a total tax liability of \$1,038, a late-filing penalty of \$210, a demand penalty of \$259.50, accrued interest of \$119.62, a filing enforcement fee of \$84, an underpayment of estimated tax penalty of \$18, and a lien fee of \$20.

¹ The BOE formerly administered sales and use taxes. Effective July 1, 2017, BOE's administrative functions transferred to the California Department of Tax and Fee Administration. (Gov. Code, § 15570.22.)

² This October 14, 2019, NPA, which is based on IRS information, appears redundant to the May 14, 2018, NPA, which is based on BOE information. Both NPAs are based on estimates of J. Pedroza's income that may overlap, thereby risking an excessive and unreasonable tax assessment. However, as described in a subsequent finding of fact, FTB did not collect payments from appellants in excess of the May 14, 2018, NPA's proposed tax amount, which remained in force throughout the payments period, and therefore this concern is moot here.

7. FTB treated appellants' 2016 return as a claim for refund of \$8,312.92 but denied the claim because the statute of limitations had expired.
8. Appellants timely appealed to OTA.

DISCUSSION

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 last date prescribed for filing a return for the year at issue (determined without regard to any extension of time to file); or (3) one year from the date of the overpayment. (R&TC, § 19306(a).) The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (*Appeal of Fischer (Dec'd)*, 2024-OTA-518P.)

Here, the first four-year statute of limitations does not apply because appellants did not timely file a 2016 tax return pursuant to an extension of time to file. The second four-year statute of limitations normally would have expired on April 15, 2021, but California postponed the filing deadline to May 17, 2021, due to the COVID-19 pandemic.³ With respect to appellants' withholding credits, payments, and tax year transfers, all deemed paid, made, or effective from April 15, 2017, through December 11, 2020, the latest one-year statute of limitations expired on December 11, 2021, based on appellants' last payment of \$1,085.78 on December 11, 2020. Thus, the latest statute of limitations period expired on December 11, 2021. However, because appellants filed their 2016 return (which FTB treated as a claim for refund) on March 14, 2023, the statute of limitations bars appellants' claim for refund.

On appeal, appellants state that they were having problems with their accountant, admit that they were irresponsible and "got very behind in filing" their tax return, and thought that remitting payments to FTB without designating an applicable tax year for the payments would cover any liability due. Appellants note that their overpayment is large and would appreciate OTA's consideration.

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.*) 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.*) This is true even when it is later shown that the tax was not

³ See <https://www.ftb.ca.gov/about-ftb/newsroom/2021/04.html> (accessed May 27, 2026).

owed in the first place. (*Ibid.*) Accordingly, OTA concludes that appellants are not entitled to a refund for the 2016 tax year because the applicable statute of limitations expired.

HOLDING

The statute of limitations bars appellants' claim for refund for the 2016 tax year.

DISPOSITION

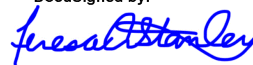
FTB's action is sustained.

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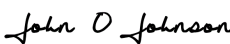
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Andrew Wong
Administrative Law Judge

We concur:

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Teresa A. Stanley
Administrative Law Judge

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John O. Johnson
Administrative Law Judge

Date Issued: 6/30/2026